ಕರ್ನಾಟಕ ವಿಧಾನ ಪರಿಷತ್ತು

ಚುಕ್ಕೆ ಗುರುತಿಲ್ಲದ ಪ್ರಶ್ನೆ ಸಂಖ್ಯೆ	1606
ಮಾನ್ಯ ಸದಸ್ಯರ ಹೆಸರು	ಶ್ರೀ ಅರುಣ ಶಹಾಪೂರ (ಶಿಕ್ಷಕರ ಕ್ಷೇತ್ರ)
ಉತ್ತರಿಸಬೇಕಾದ ದಿನಾಂಕ	18-03-2021
ಉತ್ತರಿಸಬೇಕಾದವರು	ಅಬಕಾರಿ ಸಚಿವರು

ಕ್ರ ಸಂ	ಪ್ರಶ್ನೆ	ಉತ್ತರ
ಅ)	ರಾಜ್ಯದಲ್ಲಿ ಪ್ರಸ್ತುತ ನೀಡಲಾಗುತ್ತಿರುವ ಅಬಕಾರಿ ಲೈಸೆನ್ಸ್ ಗಳು ಯಾವುವು; (ನಿಯಮಾವಳಿಗಳ ಪಟ್ಟಿ ನೀಡುವುದು)	ರಾಜ್ಯದಲ್ಲಿ ಪ್ರಸ್ತುತ ಸಿಎಲ್-4, ಸಿಎಲ್-6ಎ, ಸಿಎಲ್-7, ಸಿಎಲ್-7ಎ, ಸಿಎಲ್-7ಬಿ, ಸಿಎಲ್-7ಸಿ, ಸಿಎಲ್-8, ಸಿಎಲ್-8ಎ, ಸಿಎಲ್-8ಬಿ, ಸಿಎಲ್-11-ಸಿ, ಸಿಎಲ್-16, ಸಿಎಲ್-17, ಸಿಎಲ್-18, ಇತರೆ ಸನ್ನದುಗಳಿಗೆ ಹೊಂದಿಕೊಂಡಂತೆ (ಸಿಎಲ್-4, ಸಿಎಲ್-7, ಸಿಎಲ್-9 ಮತ್ತು ಸಿಎಲ್-6ಎ) ಆರ್.ವಿ.ಬಿ, ಮೈಕ್ರೊಬ್ರೀವರಿ, ವೈನ್ ಟಾವರಿನ್/ವೈನ್ ಬೋಟಿಕ್ ಅಬಕಾರಿ ಸನ್ನದುಗಳನ್ನು ನೀಡಲಾಗುತ್ತಿದೆ. ರಾಜ್ಯದಲ್ಲಿ ಪ್ರಸ್ತುತ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿರುವ ಸಿಎಲ್-2 ಮತ್ತು ಸಿಎಲ್-9 ಸನ್ನದುಗಳನ್ನು ನವೀಕರಿಸಲಾಗುತ್ತಿದೆಯೇ ಹೊರತು ಹೊಸದಾಗಿ ಸನ್ನದುಗಳನ್ನು ಮಂಜೂರು ಮಾಡಲಾಗುತ್ತಿಲ್ಲ. **ಕಾಯ್ದೆ/ನಿಯಮಗಳ ಪಟ್ಟಿ ಕೆಳಕಂಡಂತಿದೆ:** 1. ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯಿದೆ 1965 2. ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ದೇಶಿ ಮತ್ತು ವಿದೇಶಿ ಮದ್ಯ ಮಾರಾಟ) ನಿಯಮಗಳು, 1968 3. ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಸನ್ನದುಗಳು (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, 1967 4. ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಚಿಲ್ಲರೆಯಾಗಿ ಬಿಯರ್ ಅನ್ನು ಮಾರಾಟ ಮಾಡುವ ಗುತ್ತಿಗೆ) ನಿಯಮಗಳು, 1976 5. ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಬ್ರೀವರಿ) (ತಿದ್ದುಪಡಿ) ನಿಯಮಗಳು, 2010 6. ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಚಿಲ್ಲರೆಯಾಗಿ ವೈನ್‌ನ್ನು

		ಮಾರಾಟ ಮಾಡುವ ಹಕ್ಕು) ನಿಯಮಗಳು, 2008 7. ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಬ್ರಿವರಿ) ನಿಯಮಗಳು, 1967
ಆ)	ಲೈಸೆನ್ಸ್ ಒದಗಿಸಲು ಇರುವ ಮಾನದಂಡಗಳೇನು? (ಪ್ರತಿಯೊಂದು ಲೈಸೆನ್ಸ್ ಮಾಹಿತಿಯನ್ನು ವಿವರಣೆಯೊಂದಿಗೆ ಒದಗಿಸುವುದು.)	ರಾಜ್ಯದಲ್ಲಿ ಸಿಎಲ್-2, ಸಿಎಲ್-4, ಸಿಎಲ್-6ಎ, ಸಿಎಲ್-7, ಸಿಎಲ್-9, ಸಿಎಲ್-11ಸಿ, ಆರ್ ವಿ ಬಿ ಮತ್ತು ಇತರೆ ಪರವಾನಗಿಗಳನ್ನು ನೀಡುವಾಗ ಈ ಕೆಳಕಂಡ ನಿಯಮಗಳನ್ನು ಪಾಲಿಸಿ ನೀಡಲಾಗುತ್ತಿದೆ: 1) ಸಿಎಲ್-2, ಸಿಎಲ್-4, ಸಿಎಲ್-6ಎ, ಸಿಎಲ್-7, ಸಿಎಲ್-8, ಸಿಎಲ್-9 ಸನ್ನದುಗಳು: ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ದೇಶಿ ಮತ್ತು ವಿದೇಶಿ ಮದ್ಯ ಮಾರಾಟ) ನಿಯಮಗಳು 1968 ರಡಿಯಲ್ಲಿನ ನಿಯಮಗಳಲ್ಲಿ ಅಗತ್ಯವಾಗಿ ಕಲ್ಪಿಸಬೇಕಾಗಿರುವ ಮೂಲಭೂತ ಸೌಲಭ್ಯಗಳು ಮತ್ತು ನಿಯಮಗಳಲ್ಲಿನ ನಿರ್ಬಂಧಗಳು. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ-1** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ. 2) ಸಿಎಲ್-4, ಸಿಎಲ್-6ಎ, ಸಿಎಲ್-7, ಸಿಎಲ್-9 ಸನ್ನದುಗಳಿಗೆ ಹೊಂದಿಕೊಂಡಿರುವ ಆರ್‌ವಿಬಿ ಸನ್ನದುಗಳು: ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯಿದೆ 1965 ಮತ್ತು ಅದರಡಿ ರೂಪಿತವಾಗಿರುವ ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಚಿಲ್ಲರೆಯಾಗಿ ಬೀಯರ್‌ನ್ನು ಮಾರಾಟ ಮಾಡುವ ಗುತ್ತಿಗೆ) ನಿಯಮ 1976 ರಡಿಯಲ್ಲಿನ ನಿಯಮಗಳು ಮತ್ತು ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಸನ್ನದುಗಳ ಅಗತ್ಯವಾಗಿ ಕಲ್ಪಿಸಬೇಕಾಗಿರುವ ಮೂಲಭೂತ ಸೌಲಭ್ಯಗಳು. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ-2** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ. 3) ಮೈಕ್ರೋಬ್ರಿವರಿ ಸನ್ನದುಗಳು: ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯಿದೆ 1965 ಮತ್ತು ಅದರಡಿ ರೂಪಿತವಾಗಿರುವ ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಬ್ರೀವರಿ) (ತಿದ್ದುಪಡಿ) ನಿಯಮಗಳು 2010 ರಡಿಯಲ್ಲಿ ರೂಪಿತವಾಗಿರುವ ನಿಯಮಗಳು. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ-3** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ. 4) ವೈನ್ ಟಾವರಿನ್/ವೈನ್ ಬೋಟಿಕ್ ಸನ್ನದುಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯಿದೆ 1965 ಮತ್ತು ಅದರಡಿ ರೂಪಿತವಾಗಿರುವ ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಚಿಲ್ಲರೆಯಾಗಿ ವೈನ್ನು ಮಾರಾಟ ಮಾಡುವ ಹಕ್ಕು) ನಿಯಮಗಳು 2008 ರಡಿಯಲ್ಲಿನ ನಿಯಮಗಳು. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ-4** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ.

		ಈ ಮೇಲಿನ ಎಲ್ಲಾ ಸನ್ನದುಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು 1967 ರಲ್ಲಿನ ನಿಯಮಗಳಡಿ ರೂಪಿಸಿರುವ ನಿರ್ಬಂಧಗಳನ್ನು ಪಾಲಿಸಬೇಕಾಗುತ್ತದೆ. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ-5** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ. ಮುಂದುವರೆದು, ಈ ಎಲ್ಲಾ ಸನ್ನದುಗಳನ್ನು ಮಂಜೂರು ಮಾಡುವಾಗ ಅರ್ಜಿದಾರರುಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ದೇಶೀ ಮತ್ತು ವಿದೇಶೀ ಮದ್ಯ ಮಾರಾಟ) ನಿಯಮಗಳು, 1968ರ ನಿಯಮ 4(ಬಿ) ಪ್ರಕಾರ ಮತ್ತು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಬ್ರಿವರಿ) ನಿಯಮಗಳು 1967ರ ನಿಯಮ 5(ಬಿ) ರನ್ವಯ ಅನರ್ಹರಾಗದಿರುವ ಬಗ್ಗೆ ಸ್ವಯಂಘೋಷಿತ ಮುಚ್ಚಳಿಕೆಯನ್ನು ಪಡೆಯಲಾಗುತ್ತಿರುತ್ತದೆ. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ-6** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ

ಆಇ 33 ಇಎಲ್‌ಕ್ಯೂ 2021

(ಕೆ. ಗೋಪಾಲಯ್ಯ)
ಅಬಕಾರಿ ಸಚಿವರು

			ಈ ಮೇಲಿನ ಎಲ್ಲಾ ಸನ್ನದುಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು 1967 ರಲ್ಲಿನ ನಿಯಮಗಳಡಿ ರೂಪಿಸಿರುವ ನಿರ್ಬಂಧಗಳನ್ನು ಪಾಲಿಸಬೇಕಾಗುತ್ತದೆ. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ-5** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ. ಮುಂದುವರೆದು, ಈ ಎಲ್ಲಾ ಸನ್ನದುಗಳನ್ನು ಮಂಜೂರು ಮಾಡುವಾಗ ಅರ್ಜಿದಾರರುಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ದೇಶೀ ಮತ್ತು ವಿದೇಶೀ ಮದ್ಯ ಮಾರಾಟ) ನಿಯಮಗಳು, 1968ರ ನಿಯಮ 4(ಬಿ) ಪ್ರಕಾರ ಮತ್ತು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಬ್ರಿವರಿ) ನಿಯಮಗಳು 1967ರ ನಿಯಮ 5(ಬಿ) ರನ್ವಯ ಅನರ್ಹರಾಗದಿರುವ ಬಗ್ಗೆ ಸ್ವಯಂಘೋಷಿತ ಮುಚ್ಚಳಿಕೆಯನ್ನು ಪಡೆಯಲಾಗುತ್ತಿರುತ್ತದೆ. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ-6** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ

ಆಇ 33 ಇಎಲ್‌ಕ್ಯೂ 2021

(ಕೆ. ಗೋಪಾಲಯ್ಯ)
ಅಬಕಾರಿ ಸಚಿವರು

Annexure-1

(2) They shall apply to the sale of Indian liquor [1][x x x x x] and Foreign liquor.

(3) They shall come into force at once.

CASE LAW

Public interest petition filed under Article 32 not entertainable as it is sought to enforce Directive Principles under Article 47.

The writ petition filed under Article 32 of the Constitution is that the policy of prohibition is not being implemented as enjoined by Article 47. The petition is not entertainable. Article 47 of the Constitution, which is part of Directive Principles of State Policy, enjoins that the State shall regard the raising of level of the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health. Article 47 as in Part IV of the Constitution which contains Directive Principles of State Policy. Article 37 enjoins that the provisions of this part shall not be enforceable by any Court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. It has to be borne in mind that Article 32 of the Constitution gives the Supreme Court the power to enforce rights which are fundamental rights. Fundamental rights are justiciable, Directive Principles are not. Directive Principles are aimed at securing certain values or enforce certain attitudes in the law making and in the administration of law. Directive Principles cannot in the very nature of things be enforced in a Court of law. Whether a law should be made embodying the principles of Directive Principles depends on the legislative will of the legislation. Article 32 is not the machinery through which policy preferences or priorities are determined and Supreme Court is not the forum where the conflicting claims of policies or priorities should be debated. To make the State accept a particular policy, desirable and necessary as the policy might be is not the function of Article 32 of the Constitution. Article 32 is not the nest for all the bees in the bonnet of 'public spirited persons'.— *B. Krishna Bhat v Union of India*, (1990)3 SCC 65. [Articles 32 and 47]

To make the State accept a particular policy — Not the function of Article 32.

The petition under Article 32 is that the policy of prohibition is not being implemented as enjoined by Article 47 of the Constitution. Article 47 of the Constitution, which is part of our Directive Principles of State policy enjoins that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health. Article 47 is in Part IV of the Constitution which contains Directive Principles of the State Policy. Article 37 enjoins that the provisions of this part shall not be enforceable by any Court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. It has to be borne in mind that Article 32 of the Constitution gives the Supreme Court the power to enforce rights which are fundamental rights. Fundamental rights are justiciable, directive principles are not. Directive principles are aimed at securing certain values or enforce certain attitudes in the law making and in the administration of law. Directive

1. The brackets and words "(other than arrack)" omitted by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.

principles cannot in the very nature of things be enforced in a Court of law. Whether a law should be made embodying the principles of directive principles depends on the legislative will of the legislation. Article 32 is not the machinery through which policy preferences or priorities are determined and this Court is not the forum where the conflicting claims of policies or priorities should be debated. To make the State accept a particular policy, desirable and necessary as the policy might be is not the function of Article 32 of the Constitution. Article 32 of the Constitution is not the nest for all the bees in the bonnet of 'public spirited persons'.— *B. Krishna Bhat v Union of India*, (1990)3 SCC 65. [Articles 32, 37 and 47 of the Constitution]

2. Definitions.—In these rules, unless the context otherwise requires.—

(a) "Act" means, the Karnataka Excise Act, 1965;

(b) "Foreign liquor" means liquor other than Indian liquor;

(c) "Form" means a form appended to these rules;

(d) "Indian liquor" means all liquor defined as Indian liquor in the Act, [1][x x x x x]

(e) "Licence" means a licence issued under these rules;

(f) "Licensee" means, a person to whom a licence is issued;

(g) "Year" means the year commencing on the first day of July.

3. Licences.—Licences for the vend of [2][Indian Liquor (other than arrack)] or Foreign liquor or both shall be of the following descriptions, namely.—

[3][(1) x x x x

(1-A) x x x x x.]

(2) Retail off shop licences for vend of Indian liquor or Foreign or both not to be drunk on the premises.—Under these licences granted in Form C.L. 2, the sale of liquor in sealed bottles to any person in a quantity less than 0.180 litres at a time is prohibited.

[4][(3) x x x x x.]

[5][(4) **Licence to Clubs.**—The Agent, Secretary or Manager or any other person entrusted with the management of the business of the club shall apply and obtain licence in Form CL-4 from the Deputy Commissioner.

Explanation.—For the purpose of this clause, a club means a body of persons registered under the Karnataka Societies Registration Act, 1960.]

[6][Provided that no such licence under this clause shall be granted by the Deputy Commissioner, unless the following conditions are satisfied.—

1. The words "other than arrack" omitted by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
2. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
3. Clauses (1) and (1-A) omitted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006
4. Sub-rule (3) omitted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
5. Sub-rule (4) substituted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
6. Proviso inserted by Notification No. FD 18 PES 2002, dated 29-6-2002, w.e.f. 1-7-2002

(1) the club shall have been registered under the Karnataka Societies Registration Act, 1960 for a period of not less than five years and there must be atleast 100 permanent members.

(2) It shall have its own land and building or shall have obtained it on lease for a term of eleven years or more.

(3) It shall have facility for outdoor games like, Tennis, Badminton, Volleyball *etc.*, and indoor games like Carrom, Table Tennis *etc.*, and a reading room or a library.

(4) It shall have adequate facilities for catering food and drinks to the members.

(5) It shall have separate toilet with running water facilities for men and women:

Provided further that existing clubs to whom licences are granted under this clause for the excise year 2001-2002 shall be allowed to renew their licences under the rule existing prior to the commencement of the Karnataka Excise (Sale of Indian and Foreign Liquors) (First Amendment) Rules, 2002.]

(5) **Occasional licences.**—These licences in Form CL-5 are issued for the sale of liquor at the refreshment stalls in connection with race meetings, public entertainments and other such public gatherings to be drunk on the premises.

(6) **Special licences.**—These licences shall be granted in Form CL-6 by the Deputy Commissioner of the district with the previous sanction of the Excise Commissioner, when the circumstances are such as not to allow of the issue of licences of any of the above descriptions, on such terms and conditions and for such periods, as he may on each occasion determine.

[1][(6-A) **Star Hotel Licences.**—Licences under this clause shall be granted by the Deputy Commissioner in Form 6-A to Star hotels for possession and sale of liquor. The licensees under this clause may serve liquor to the residents in the rooms and open more than one counter for the convenience of the residents and boarders within the licensed premises with the approval of the Deputy Commissioner.

Explanation.—'Star Hotel' means the hotel recognized as such by the Ministry of Tourism, Government of India.]

[2][(7) **Hotel and Boarding House licences.**—

(a) A licence under this clause shall be applied for and obtained in Form CL-7 from the Deputy Commissioner.

(b) No liquor under this licence shall be sold to persons other than those accommodated in the licenced hotel and boarding houses and their guests and casual visitors who take meals in such places.]

1. Clause (6-A) inserted by Notification No. FD 18 PES 2002 dated 29-6-2002, w.e.f. 1-7-2002
2. Sub-rule (7) substituted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.

[1][Provided that no licence under this clause shall be granted unless the hotel and boarding house is having a minimum of thirty double rooms in corporation areas and twenty double rooms in other areas:

Provided further that the licences granted under this clause for the excise year 2001-2002 shall be allowed to renew the licences under the rule existing prior to the commencement of the Karnataka Excise (Sale of Indian and Foreign Liquors) (First Amendment) Rules, 2002:]

[2][Provided further more that in respect of Hotels and Boarding Houses leased by the Karnataka State Tourism Development Corporation to private persons, firm or companies on renovate, operate, maintain and transfer (ROMT) basis, while granting or renewing the licenses under this clause, the Excise Commissioner may relax the condition regarding the minimum requirement of thirty double rooms in Corporation areas and twenty double rooms in other areas.]

[3][(7-A) **Tourist Hotel Licences.**—These licences may be granted to Tourist Hotels situated in places other than Cities and managed by the Tourist Development Corporation of the State Government or the Central Government for the possession and sale of Indian liquor (other than arrack) or Foreign liquor or both for supply to residents or for removal to their private rooms in the Tourist Hotel in which tourists stay or to regular boarders for consumption within a specified area in the licenced premises of the tourist hotel or boarding house set apart by the management for the purpose and approved by the Deputy Commissioner of the District in Form No.CL-14 on such terms and conditions as may be specified in the licence and on such other conditions as the Excise Commissioner may from time to time, specify.]

[4][(7-B) **Tourist Hotel Beer Bar Licences.**—These licences may be granted to Tourist Hotels [5][x x x x x] managed by the Tourism Development Corporation of the State Government or Government or Central Government for the possession and sale of beer for supply to residents or for removal to their private rooms in the Tourist Hotel in which tourists stay or to regular boarders for consumption within a specified area in the licenced premises of the tourist hotel or boarding house set apart by the management for the purpose and approved by the Deputy Commissioner of the District in Form CL-15, on such terms and conditions, as may be specified in the licence and on such other conditions as the Excise Commissioner may, from time to time, specify.]

[6][(7-C) **Licence to supply liquor on Board of Train engaged and run by Tourism Development Corporation of State Government or Central Government.**—(a) A licence under this rule may be granted to the Tourism Development Corporation of State Government or Central Government in Form CL-7C by the Deputy Commissioner, Bangalore Urban District, with

1. Provisos inserted by Notification No. FD 18 PES 2002, dated 29-6-2002, w.e.f. 1-7-2002
2. Third proviso inserted by Notification No. FD 2 PES 2004, dated 3-2-2004, w.e.f. 3-2-2004
3. Sub-rule (7-A) inserted by GSR 159, dated 19-6-1978, w.e.f. 28-6-1978.
4. Sub-rule (7-B) inserted by GSR 35, dated 6-2-1981, w.e.f. 6-2-1981.
5. The words "situated in places other than cities" omitted by GSR 121, dated 11-5-1981, w.e.f. 13-5-1981.
6. Sub-rule (7-C) inserted by Notification No. FD 01 PES 2008, dated 25-3-2008, w.e.f. 25-3-2008

the prior sanction of the Excise Commissioner for possession and sale of Indian liquor or foreign liquor or both for supply to the *bona fide* travelers traveling in the trains engaged and run by the Tourism Development Corporation of the State Government or Central Government for consumption of liquor within the train during its stay in the limits of the Karnataka State subject to the conditions specified therein the licence.

(b) While applying for licence under this clause, the applicant shall submit application along with the fee specified in Rule 8 and due permission and No Objection Certificate granted by the competent Indian Railway Authorities to serve liquor on board of the train.]

[1][(7-D) Hotel and Boarding House Licenses owned by the person belonging to Scheduled Castes and Scheduled Tribes.—

(a) A licence under this clause shall be applied for and obtained in Form CL-7D from the Deputy Commissioner;

(b) No liquor under this license shall be sold to persons other than those accommodated in the licensed hotel and boarding houses and their guests and casual visitors who take meals in such places:

Provided that no licence under this clause shall be granted unless the hotel and boarding house is having a minimum of fifteen double rooms in Corporation areas and ten double rooms in other areas.]

(8) Military Canteen Licences.—These licences may be granted to military canteens for sale of [2][Indian Liquor (other than arrack)] or Foreign liquor or both to the members of the armed forces for their use only and shall be in Form CL-8.

[3][(8-A) Military Canteen Stores Bonded Warehouse Licence.—A licence under this clause shall be in Form CL-8-A and shall be granted by the Excise Commissioner, to establish a military canteen stores bonded warehouse, to import, export and store Indian made liquor (other than arrack) or foreign liquor without payment of excise duty. The licensee shall supply or sell the above liquor only after payment of excise duty to other military canteen stores within the State having CL-8 licence.]

[4][(8-B) Border Security Force or Para Military Forces Licences.—Licences may be granted in Form CL-8-B to Border Security Forces or Para Military Units for sale of Indian Liquor (other than arrack) or Foreign Liquor or both to the members of Border Security Force or Para Military Units for their personal consumption.]

[5][(9) Refreshment Room (Bar) Licence.—

(a) A licence under this clause, for refreshment room (bar) for sale of Indian liquor combined with the supply of meals or eatables shall

1. Sub-rule (7-D) inserted by Notification No. FD 14 PES 2013, dated 9-6-2014, w.e.f. 9-6-2014.
2. Substituted for the words "Indian liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
3. Sub-rule (8-A) inserted by GSR 152, dated 24-6-1988, w.e.f. 1-7-1988.
4. Sub-rule (8-B) inserted by Notification No. FD 12 PES 95(iv), dated 29-6-1996, w.e.f. 29-6-1996.
5. Sub-rule (9) substituted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.

be applied and obtained in Form CL-9 from the Deputy Commissioner:

Provided that no such licence shall be granted by the Deputy Commissioner unless he is satisfied that the refreshment room (bar) provided the following accommodations and facilities.—

[1][(i) a kitchen with sufficient accommodation either with exhaust fan or proper ventilator. The customers shall not pass through kitchen to go the toilet. Passage to the toilet shall be separate from the kitchen;

(ii) a separate room (Dining Hall) for serving the liquor alongwith meals or eatables for consumption. The space in the dining shall be so provided that not more than eight persons shall be accommodated in a built in floor area of 100 Sq. ft. (10x10) with a minimum of four feet space between the tables for the movement of customers and servers. Further, the total area of the Hall/Halls for dining shall not be less than 400 Sq. ft:

Provided that the minimum requirement of 400 Sq. fit, area for dining may be relaxed by the Deputy Commissioner of Excise in case of the licences existing on the dates of the commencement of the Karnataka Excise (Sale of Indian and Foreign Liquor) (Amendment) Rules, 1993:

Provided further that in case the licensee desired to shift the licensed premises to any other premises from the premises in which the licence is existing on the date of the commencement of the Karnataka Excise (Sale of Indian and Foreign Liquor) (Amendment) Rules, 1993, the above provisions shall apply without any relaxation.]

(iii) adequate seating arrangements;

(iv) separate toilet with running water facilities for men and women.

(b) No sale of liquor for removal from the premises shall be permitted under the licence. No liquor shall be sold to persons who have not part taken of meals or eatables served in the licenced premises:]

[2][Provided that no licence under this sub-rule shall be granted in any predominantly residential area.]

(10) Auctioner's licences.—(a) These licences shall be in Form CL-10 and shall be applied for and obtained from the Deputy Commissioner of the District.

(b) The licencee may be give sample bottles in respect of all consignments whether trade consignments or the property of private persons, in order that intending purchasers may have the opportunity of testing high class wines or spirits at their own houses before the auction sale.

1. Items (i) and (ii) substituted by GSR 74, dated 15-4-1993, w.e.f. 1-7-1993.
2. Proviso inserted by GSR 74, dated 15-6-1993, w.e.f. 1-7-1993.

(c) The licensee is authorised to sell the [1][Indian liquor (other than arrack)] or foreign liquor or both in less quantities than whole dozens of each description in the case of sales by auction of the property of private parties or estates, or of trade consignments which are alleged or otherwise unmerchantable.

(d) The licensee is authorised to sell by auction at places specified in the licence.

[2][(11) Distributor licence.—(a) A licence under this clause shall be granted by the Excise Commissioner for the whole of the State or any part thereof to deal in the products of all distilleries or breweries or wineries in the State or to import liquor from outside the State for the purpose of distribution or sale within the State or part thereof or to export liquor outside the State. The licensee shall establish such number of depots in different parts of the State, as the Excise Commissioner may specify in this behalf.

(b) The licence under this clause shall be issued only to such company owned or controlled by the State Government as it may specify.

(c) The licence shall be in Form CL-11 and shall be subject to renewal each year at the discretion of the Excise Commissioner.

(d) The Excise Commissioner may also permit the licensee to sell foreign liquor imported from outside India.]

[3][(11-A) Distributor licence to sell foreign liquor.—(1) A licence shall be granted by the Excise Commissioner for the whole of the State or any part thereof to directly import foreign liquor from outside India or to import foreign liquor from other authorised agencies outside the State of Karnataka but within India for the purpose of distribution of sale within the State of Karnataka, as the case may be.

(2) The licence under this clause shall be issued only to such company owned or controlled by the State Government and which possesses an authorisation or import licence granted by the Government of India to import foreign liquor as specified by the Government.

(3) The licence shall be in Form CL-11A and shall be subject to renewal each year at the discretion of the Excise Commissioner.]

[4][(11-B) Licence to sell confiscated liquor.—(1) A licence under this clause in Form CL-11B shall be granted by the Deputy Commissioner, only to such companies owned or controlled by the State Government and specified by the Government for possession and to sell in retail to any person of the liquor seized or confiscated under the Karnataka Excise Act, 1965 and Rules framed thereunder and found fit for human consumption.]

1. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
2. Sub-rule (11) substituted by Notification No. FD 16 PES 2003(i), dated 30-6-2003, w.e.f. 30-6-2003.
3. Clause (11-A) inserted by Notification No. FD 15 PES 2001, dated 4-7-2001, w.e.f. 1-7-2001
4. Clause (11-B) inserted by Notification No. FD 18 PES 2002, dated 29-6-2002, w.e.f. 1-7-2002

[1][(11-C) Retail shop licence issued to Government Companies.—(1) Notwithstanding anything contained in Rule 12, a licence under this clause in Form CL(11-C) shall be granted by the Deputy Commissioner, only to such companies owned or controlled by the State Government and specified by the Government, for possession and sale of liquor in retail shops with a condition that such shops shall be exclusively maintained by them and shall not be transferred and sub-leased to others. Consumption of liquor within the licensed premised shall not be allowed under this category of licences.]

[2][(12) Licence for retail sale of bottled toddy.—Licence for the retail sale of bottled toddy may be granted with the previous sanction of the Excise Commissioner in Form CL-12 by the Deputy Commissioner of the District, on payment of the licence fee specified in Rule 8 and on such terms and conditions as may be specified in the licence and on such other conditions as the Excise Commissioner may, from time to time, specify.

[3][(13) Arrack depot licence.—The Deputy Commissioner may, with the previous sanction of the Excise Commissioner, grant arrack depot licence in Form CL-13, to a person who has obtained a lease of the right of retail vend of arrack for storage of bottled arrack of the approved sizes affixed with excise lables obtained from the licensed warehouse or Depot, on payment of fee specified in Rule 8, subject to the terms and conditions specified in the licence and on such other conditions as the Excise Commissioner, may specify from time to time.]]

[4][(14) Licence for running duty-free shop at International Airport.—Licence for retail sale of foreign liquor to *bona fide* International Air Passengers transiting the [5][x x x] International Airport who are required to wait at the airport transit lounge reserved for such passenger before resuming their journey shall be granted with the prior sanction of the Excise Commissioner in Form CL-16 by the Deputy Commissioner of the District on payment of fee as specified in Rule 8 and as such terms and conditions as the Excise Commissioner may specify from time to time.]

[6][(15) Refreshment Room (Bar) Licence at International Airport.—Licence under this clause, for refreshment room (bar) for sale of Foreign Liquor or Indian Liquor or both, combined with supply of meals or eatables in.—

(a) an area common for the domestic and international air passenge and *bona fide* users shall be granted in Form CL-17; and

(b) an area exclusively meant for international air passengers shall b granted in Form CL-18;

1. Clause (11-C) inserted by Notification No. FD 14 PES 2003(i), dated 30-6-2003, w.e.f. 1-7-2003
2. Sub-rules (12) and (13) inserted by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972
3. Sub-rule (13) inserted by Notification No. FD 23 PES 99(2), dated 18-11-2000, w.e.f. 18-11-2000.
4. Sub-rule (14) inserted by Notification No. FD 2 PES 2001, dated 22-2-2001, w.e.f. 22-2-2001
5. The word "Bangalore" omitted by Notification No. FD 3 PES 2008, dated 22-11-2008, w.e.f. 22-11-2008 .
6. Sub-rule (15) inserted by Notification No. FD 3 PES 2008, dated 22-11-2008, w.e.f. 22-11-2008

of an international airport, by the Deputy Commissioner of the District concerned on payment of a fee as specified in Rule 8 and on such terms and conditions as the Excise Commissioner may specify from time to time.]

CASE LAW

R. 3 — Standing Circular No. 141, Para 3(c) — C.L. 2 Licence holder to purchase only from C.L. 1 Licence holder of his district; not permissible to puchase from C.L. 1 Licence Holder outside the district — Explained. — *Bhagyalakshmi Wines Stores and Another v State of Karnataka and Others*, 1989(3) Kar. L.J. 826.

R. 3(2) — As amended by Karnataka Excise (Sale of Indian and Foreign Liquors) (Amendment) Rules, 1997 — Distributor licence — Amendment liberalising grant of — Provision restricting distributorship to company owned or controlled by State Government, validity of which has been upheld by Apex Court, sought to be diluted and water down by making amendment, permitting appointment of more than one distributor for distillery, brewery or winery either for whole or part of State — Amendment made to nullify effect of judgment of Apex Court is liable to be quashed.

R.P. Sethi, CJ. and A.M. Farooq, J., Held: In the instant case while upholding the validity of 1989 rules, the Supreme Court rejected all the pleas of the manufacturers and distilleries of the IMFL which have been now made a basis for repealing of the 1989 rules. Upholding the validity of the impugned rules would amount to setting aside of the Apex Court judgment in *Khoday Distilleries* case. What the distilleries and manufacturers of liquor could not achieve in a Court of law, they have clandestinely succeeded to obtain by virtue of the impugned rules. The impugned rules if permitted to remain on the statute book would not only be contrary to the directions of the Supreme Court but would be a negation of the rule of law. The impugned rules have not been referred to any reasonable basis or justification. The impugned rules are not only unconstitutional, illegal, *mala fide,* initiated at the instance of the manufacturers and distilleries of IMFL is conspiracy with some bureaucrats but also against the general public interest resulting in huge losses not only to the State Exchequer but to MSIL, admittedly a public undertaking and a Government Company. — *K.V. Amarnath and Another v State of Karnataka and Others,* 1998(5) Kar. L.J. 62D (DB).

Rule 3(2) — Constitution of India, Articles 226 and 227 — Allegation of selling spurious and adulterated liquors made against licensee — Suspension of licence in Form CL-2 pending enquiry into — Writ petition challenging order of suspension of licence on ground that opinion formed by Deputy Commissioner that licensee was in possession of spurious and adulterated liquor was without basis as the report of chemical analyst does not disclose anything harmful to consumers in liquor alleged to be spurious and adulterated, seized from licensee — However, in view of fact that opinion formed by authority for suspending licence is based on *prima facie* material and it for that authority to take note of Chemical Analyst's report at time of enquiry, matter is not one to be interfered with in exercise of judicial review — Direction, however, lies to authority to complete enquiry within two months.

B.S. Patil, J., Held: This is not a case of cancellation of licence, but suspension of the licence pending enquiry. The opinion formed by the Deputy Commissioner, as is evident from the impugned order, is based on *prima facie* material placed before him. What is the effect of the report of the Chemical Analyst, is a matter to be taken note of at the time of enquiry. Therefore, the writ petition is dismissed. . . . . . However, in view of the petitioner apprehending that the disposal of the case may get delayed before the Deputy Commissioner, I deem it appropriate to direct the Deputy

Commissioner to conduct necessary enquiry and complete the same within a period of two months from the date of receipt of a copy of this order. — *Smt. Lalithamma v State of Karnataka and Others,* 2010(1) Kar. L.J. 669.

Rule 3(2) — Constitution of India, Articles 226 and 227 — Retail shop licence — Breach of terms and conditions of — Cancellation of licence for — Concurrent finding of fact by three authorities, *viz.,* Deputy Commissioner (Excise), Commissioner of Excise and Tribunal, that illicit liquors were manufactured and smuggled liquors were sold by servants of licensee in licensed premises — Whether to compound offence or to cancel licence is matter of discretion of authority — Where authority has chosen to cancel licence on basis of such finding, decision of authority cannot be interfered with in exercise of writ jurisdiction.

It reveals from the specific finding given by the Commissioner of Excise that it is a fact that the duplicate liquor and the non-duty paid liquor were found in the storeroom belonging to the CL-2 licensed premises. Therefore, to make a distinction that the same was few metres away from the licensed premises does not hold much water. Whether to compound the offence or cancel the licence is the subjective satisfaction of the Deputy Commissioner who is the licensing authority has passed a well-considered order dismissing the appeal filed by the petitioner. The Karnataka Appellate Tribunal also dismissed the appeal holding that as per Section 29, it is very much evident that if any of the servants who is acting on behalf of the licensee either with his express or implied permission, then also the licence is liable to be cancelled or suspended. Therefore, it cannot be held that the servants are responsible for the crime and not the licensee. Section 29(b) of the Karnataka Excise Act gives sufficient powers to the licensing authority to cancel the licence for breach of licence condition. Once the Competent Authorities have recorded a concurrent finding of fact, this Court cannot exercise its extraordinary jurisdiction under Article 226 of the Constitution of India. At one stage, the petitioner herself has admitted in unequivocal terms in writing that her servant has committed a mistake and she is ready to pay the penalty and the value of the commodity seized. Thereafter, she changed her version in the objections filed to the show-cause notice. . . . Having regard to the facts and circumstances of the case there is no error of law or material irregularity in the impugned orders. — *Smt. Jayamma v The Commissioner of Excise in Karnataka, Bangalore and Others,* 2003(3) Kar. L.J. 272.

Rule 3(9) — Bar licence — Cancellation for unauthorised transfer of — Transfer involves parting with ownership of business of running bar for which licence was granted, and transfer becomes unauthorised attracting penalty of cancellation of licence, only if transfer has been effected without previous permission of designated authority and without payment of requisite transfer fee — Act does not contemplate that licensee must himself run bar by being present on premises all time — He is not prohibited from managing business through servant or agent — Power of attorney simpliciter granted to agent to manage business does not amount to transfer of business to agent — Unless there is finding that licensee has divested himself of ownership of business, licence cannot be cancelled — Cancellation of licence in absence of such finding, held, amounts to wrongfully preventing licensee from carrying on her business.

Rule 17 of the Karnataka Excise Licences (General Conditions) Rules, 1967 provides that the right of retail vend of liquor shall not be transferred by the licensee except with the previous permission of the Deputy Commissioner. Rule 17-A provides that in the event of death of the licensee during the currency of the licence, the Deputy Commissioner may, on an application by the legal heirs of the deceased with the previous sanction of the Excise Commissioner, transfer the licence in their favour. Rule 17-B provides for transfer of licences. It provides that in regard to licences issued for sale of

Psychotropic Substances Act, 1985 and Medicinal and Toilets Preparation (Excise Duties) Act, 1955, or an offence under Section 481, 482, 483, 484, 485, 486, 487 or 489 of the Indian Penal Code, 1860.

Explanation.—For the purposes of this rule, a company, firm or other body corporate shall be deemed to have incurred the disqualification if the person in charge of and responsible for the conduct of the business of such company, firm or other body corporate has incurred the disqualification.

[1][Provided that the authority which grants or renews the licence may in the interest of revenue and for any other reason to be recorded in writing relax the provisions of clause (i) and grant or renew the licence.]

(2) A person shall not be disqualified under clause (i) of sub-rule (1) if he produces a certificate from a competent Revenue or Excise Officer to the effect that the arrears have been paid.]

[2][**5. Grant of Licence.**—On receipt of the application under Rule 4, [3][and subject to the provisions specified in Rule 4-A] the Deputy Commissioner or the Excise Commissioner, as the case may be, may require such other particulars as he may deem necessary and may make inquiries for verification of the particulars furnished by the applicant and also such other inquiries as he deems fit. If the Deputy Commissioner or the Excise Commissioner, as the case may be is satisfied that there is no objection to grant the licence applied for, he may grant the licence on payment of the fee prescribed under Rule 8 for such licence:

Provided that no such licence shall be granted by the Deputy Commissioner except with the previous sanction of the Excise Commissioner.]

[4][Provided further that while considering the applications for grant of CL-7 licence, the Deputy Commissioner shall ensure that the applicant is in a position to provide good accommodation and facilities to the customers and the standard of refreshments, food and service are provided for. If the Deputy Commissioner is of the opinion that the hotel or the boarding house does not conform to the minimum standard required for running a hotel or boarding house or not suitable to grant licence, he may reject such application after giving reasons therefor.]

CASE LAW

R. 5 — Licence — Grant of.

Jagannatha Shetty, J.—A rival trader has no right to be heard before considering an application for licence. The grant of licence under the Excise Rules is not controlled by the population of the area — *Sardar Ratan Singh v Excise Commissioner,* 1974(2) Kar. L.J. Jr. 75 Sh.N. 287.

1. Proviso inserted by Notification No. FD 18 PES 99(I), dated 23-8-2002 and shall be deemed to have come into force w.e.f. 24-6-2002
2. Rule 5 substituted by GSR 344, dated 14-10-1976, w.e.f. 28-10-1976.
3. Inserted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
4. Further proviso to Rule 5 inserted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.

[1][**5-A. Renewal of licence.**—(1) The Excise Commissioner or the Deputy Commissioner, as the case may be, may on an application made to him along with the licence fee prescribed in Rule 8 renew the licence granted under these rules [2][except wholesale licence granted in Form CL-1 or Form CL-1 (Beer), for the period commencing from 1st July, 2006.].

(2) Every such application shall be made at least one month before the expiry of the licence already granted:

Provided that the Excise Commissioner or the Deputy Commissioner, as the case may be, may accept and consider any such application made after the aforesaid period of one month, if he is satisfied that the applicant had sufficient cause for not making the application within that period.

(3) The licences granted prior to the first of July, 1999 may be renewed at the discretion of the Excise Commissioner or the Deputy Commissioner, as the case may be on payment of 50% (fifty per cent) of the fee prescribed under Rule 8 in respect of the entire period for which licence was not granted, for the purpose of maintaining continuity of the licences:

Provided that while renewing the licence under this sub-rule the Deputy Commissioner or the Excise Commissioner, as the case may be shall ensure that the total number of licences granted or renewed do not exceed the quota fixed in Rule 12, for grant of each kind of licence for an area.]

CASE LAW

Rule 5-A — As amended by Karnataka Excise (Sale of Indian and Foreign Liquors) (Second Amendment) Rules, 2000 — Licence — Grant or renewal of — It has to be granted or renewed for whole excise year, and not for fraction of excise year — Renewal of licence for only three months after collecting licence fee for whole excise year, held, bad in law.

It is not in dispute that the authorities have no power to renew the licence for a break up period. When the Rule provides that the licence has to be renewed from one excise year to another excise year the respondents have granted licence only for a period of three months after collecting the licence fee for the whole year. The respondents- authorities have no right to collect the licence fee for a break up period under the Act. When they have no right to collect the licence fee for a break up period, they have no right to grant licence for a break up period. In other words, there is no justification on the part of the respondents to collect the licence fee for the whole year and grant the licence for a period of three months only. — *S.N. Chinappa v State of Karnataka and Others,* 2001(5) Kar. L.J. 234.

Rule 5-A — Petitioners prayed for writ of *mandamus* directing respondents to renew lapsed licences by accepting 50% of prescribed licence fee for lapsed period — Sub-rule (3) of Rule 5-A makes it clear that if licences granted prior to 1-7-1999 may be renewed on payment of 50% of fee prescribed under Rule 8 of Rules in respect of lapsed period — Petitioners have obtained licences after 1-7-1999, benefit or concession provided under Rule 5-A(3) not applicable to them — Demand notice issued by authorities calling upon petitioners to deposit entire arrears of licence fee cannot be said to be illegal or bad in law — Petition dismissed.

Mohan Shantanagoudar, J., Held: The bare perusal of Rule 5-A of the Rules would make it clear that the application for renewal of licence shall be made

1. Rule 5-A inserted by Notification No. FD 12 PES 2000, dated 24-6-2000, w.e.f. 24-6-2000.
2. Inserted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006

Rules 4 and 5 — Retail shop — Grant of licence in Form CL-2 for running of — Condition regarding location — Premises where applicant intends to conduct business under licence must be specified in application, and if premises is found suitable, licence can be granted — Consent of owner of premises, when applicant himself is not owner, is not requirement for grant of licence — Once consent of landlord is obtained for issue of licence, his further consent is not necessary for renewal of licence every year — Licence granted cannot be revoked merely because landlord has chosen to withdraw his consent.

V.K. Singhal, J., Held: The licence has to be granted by the Excise Authorities on the basis of fulfilling the requirements of the Act and the Rules made thereunder. Though the requirement of any consent of the landlord is not specifically there, but for administrative convenience it has been obtained as in the present case. Once the consent is obtained for, thence for the subsequent period it is not necessary that such consent has to be obtained for renewal of licence every year. Grant of licence cannot be regulated by the whim of the owner of the premises. There is no provision under the Act or the Rules for refusal or cancellation of the grant of licence or renewal in a situation when subsequently the landlord changes his mind. The whim of the landlord would not determine the fate of the tenant. The question whether there is a valid lease or tenancy in existence cannot be examined in the proceedings under Article 226 of the Constitution when a suit is also pending. The right of the tenant does not come to an end automatically with the termination of lease/tenancy. In these circumstances, there is no case made out for interference under the extraordinary jurisdiction under Article 226 of the Constitution. — *B.C. Narasimha Murthy v The Commissioner of Excise, Bangalore and Others,* 1998(5) Kar. L.J. 491A.

R. 4(2)(iv) — Karnataka Excise (Possession, Transport, Import and Export of Intoxicants) Rules, 1967, Rule 4 — Licence in Form CL-1 to wholesalers — Condition No. 2 of licence — Wholesaler to sell liquors only within area specified in licence — Retailer holding CL-2 licence has necessarily to purchase liquor from only such wholesaler who has licence to sell within area — Retailers in Bangalore Rural District purchasing liquor from wholesalers in Bangalore Urban District whose CL-1 licence permits him to sell liquor in Bangalore Rural District as well — Such retailers are entitled to be given transport permits for transporting purchased liquor to their licensed premises.

G.C. Bharuka, J., Held.—Since as per Condition No. 2 of his licence in CL-1, a wholesaler can sell liquor only within the area specified in his licence, it is necessarily follows that a retailer of the said district only can purchase liquor from such in wholesaler. In the present cases, it has been brought on record that some of the wholesaler of Bangalore Urban District have been granted licence to effect sale in Bangalore Rural District as well. In that view of the matter as per the law laid down, the present petitioners are entitled to make purchases from the said wholesale dealers. Since purchases in question of the petitioners will be in accordance with law, respondents are statutorily bound to grant them permits for transportation of the purchased stock of liquor to their licensed premises in terms of Rule 4 of the Karnataka Excise (Possession, Transport, Import and Export of Intoxicants) Rules 1967 provided all the other terms for issuance of such permits as contemplated under law or complied with. — *M. Venkataramaiah v State of Karnataka and Others,* 1996(5) Kar. L.J. 579.

Rule 4(3) — Karnataka Excise Act, 1965, Section 71 — Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 — As amended in 1992 with effect from 1-7-1992 — Licence — Application for grant or regrant of — Rule requiring application to be accompanied by up-to-date Sales Tax Clearance Certificate issued by Department of Commercial Taxes as condition for

considering application — Rule, held, is beyond rule making power of State Government and is unenforceable, as levy and collection of sales tax is not one of purposes to be achieved under Excise Act.

R.V. Raveendran, J., Held.—Firstly, levy and collection of sales tax is not one of the purposes sought to be achieved under the Excise Act. Secondly, the Karnataka Sales Tax Act does not provide that a licence holder under the Excise Act should not be a defaulter of sales tax for the purpose of grant of licence under the Excise Act. Thirdly, neither the Sales Tax Act nor the Excise Act define what is a Sales Tax Clearance Certificate.... It is declared that Rule 4(3) of the Rules is beyond the rule making power of the State Government and it is unenforceable. Rule 4(3) of the said Rules is hereby struck down. Consequently, the Authorities enforcing excise laws will not be entitled to insist on production of Sales Tax Clearance Certificate as a condition for accepting an application or for granting licence under the Karnataka Excise (Sale of Indian and Foreign Liquor) Rules, 1968. — *Bhanu Liquor Shop, Banuvalli, Harihar Taluk v State of Karnataka and Others,* 2000(5) Kar. L.J. 512.

[1][4-A. **Registration of Application.**—(1) The Excise Commissioner or Deputy Commissioner, as the case may be, shall register every application immediately on its receipt in the register prescribed. If the application does not contain the prescribed particulars or otherwise is not in order, the Excise Commissioner or Deputy Commissioner shall return such application to the applicant for re-submission under a written endorsement. If the applicant fails to re-submit such application within fifteen days from its receipt from the Deputy Commissioner such application shall be deemed to have been rejected.

(2) Every application received under sub-rule (1), shall be entered in the register prescribed and shall be allotted a registration number in the serial order specifying the time and date of its receipt.

(3) The Deputy Commissioner shall consider and dispose applications received under sub-rule (1), having regard to their date or receipt.]

[2][4-B. **Disqualification.**—(1) A person shall be disqualified from submitting an application for obtaining or renewal of licence under these rules if he.—

(i) has not paid the arrears of any excise dues in respect of liquor sold by him;

[3][(ii) has not produced a valid income-tax clearance certificate or has not produced any document in proof of filing the latest income-tax return before the Income-tax Department in respect of his income;]

(iii) is holding an office of profit under the State Government or Central Government;

(iv) is a minor or an undischarged insolvent or is of unsound mind;

(v) has been convicted of any cognisable and non-bailable offence under any Act, or any offence under the Narcotic Drugs and

1. Rule 4-A inserted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
2. Rule 4-B inserted by Notification No. FD 15 PES 99(I), dated 24-6-2002, w.e.f. 24-6-2002
3. Clause (ii) substituted by Notification No. FD 15 PES 99(I), dated 23-8-2002 and shall be deemed to have come into force w.e.f. 24-6-2002

Annexure-2

[1]THE KARNATAKA EXCISE (LEASE OF THE RIGHT OF RETAIL VEND OF BEER) RULES, 1976

CONTENTS

...nded by GSR 150, dated 14-6-1978; GSR 290, dated 11-10-1980; GSR ...-1991; GSR 33, dated 11-2-1992; Notification Nos. FD 10 PES 95(iv), ...1995; FD 7 PES 98(v), dated 18-6-1998; FD 6 PES 99(i), ...; FD 10 PES 2002(IV), dated 29-6-2002; FD 32 PES 2002, dated

... Karnataka Gazette, dated 5-5-1976, vide Notification No. HD 16 PET 75(II), ...1976.

A KLJ PUBLICATION

16-1-2003; FD 36 PES 2003(3), dated 23-2-2004 and Notification No. FD 2009, dated 25-3-2010.)

GSR 226.—Whereas a draft of the Karnataka Excise (Lease o Right of Retail Vend of Beer) Rules, 1976 was published as req by sub-section (1) of Section 71 of the Karnataka Excise Act, (Karnataka Act 21 of 1966) in Notification No. GSR 179 (HD 16 76(II), dated 30th June, 1976 in Part IV, Section 2C(i) of the Kar Gazette, Extraordinary, dated 30th June 1976 inviting objections suggestions from all persons likely to be affected thereby before July, 1976;

And, whereas, the Gazette was made available to the public on June, 1976;

And, whereas, no objections or suggestions have been receive the said draft by the State Government;

Now, therefore, in exercise of the powers conferred by Sectio of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), Government of Karnataka, hereby makes the following rules, name

1. Title, extent and commencement.—(1) These Rules may called the Karnataka Excise (Lease of the Right of Retail Ven Beer) Rules, 1976.

(2) They shall extend to the whole of the State of Karnataka.

(3) They shall come into force from 1st July, 1976.

2. Definitions.—In these rules, unless the context otherwise requ

(a) "Act" means the Karnataka Excise Act, 1965;

(b) "Beer" means any liquor prepared from malt or grain or without the addition of sugar and hops and includes black beer, porter, stout and spruce beer;

(c) "Form" means a form appended to these rules;

(d) "Licence" means a licence issued under these rules;

(e) "Year" means year commencing on the first day of Jul ending June 30th;

(f) "Shop" means the shop licensed for retail vend of under these rules;

(g) "Lease" means a lease granted under these rules for vend of Beer in a shop.

3. Lease of Retail Vend of Beer.—A person desiring to ob lease for retail vend of Beer under these rules, may mak application to the Deputy Commissioner in Form I. The applic shall be accompanied by a Treasury Challan for having credite lease amount prescribed in Rule 5.

4. Grant of Lease of Retail vend of Beer.—On receipt of the appli under Rule 3, the Deputy Commissioner may after making such en for purpose of verification of the particulars furnished by the app [1][and having regard to the provisions of Rule 4-A, if he is satis

1. Substituted for the words "and if he is satisfied" by GSR 63, dated 8-4-1991, w.e.f.

there is no objection to lease the right of retail vend of Beer, he with the previous sanction of the Excise Commissioner, grant the se.

[1][4-A. Matters to be taken into account while granting lease.—The puty Commissioner, shall, while granting lease under these rules, ve regard to,—

(i) the availability of rooms for serving Beer along with eatables for consumption;

(ii) adequate seating arrangements;

(iii) the provision for separate toilet with running water facilities.]

[2][5. Lease amount.—(1) The lease amount for the Right of Retail nd of Bulk Beer shall be rupees thirty thousand per annum and se amount for vending Bulk Beer by holder of [3][[4][a licence in Form 4 or Form CL-6A or Form CL-7 or Form CL-9] issued under the nataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968] shall rupees fifteen thousand per annum, and

(2) The lease amount for the Right of Retail Vend of Bottled Beer ll be rupees four thousand five hundred per annum.]

[5][5-A. Additional lease amount.—In respect of a lease granted er these rules, an additional lease amount equivalent to fifteen per ses specified in Rule 5, shall be levied for the purpose of various astructure projects across the State, equity investment in Bangalore s Rapid Transit Limited and for establishing a Mukhya Manthri eena Rasthe Abhivruddhi Nidhi in the proportion of 57:28:15 ectively.]

[6][6. Duration of Lease.—The lease shall be for a period of three s subject to annual renewal and also subject to good behaviour payment of lease amount as specified in Rule 5.]

Licence.—On granting lease under Rule 4, of the Deputy missioner shall issue a licence to the licensee in Form No. II. The licence shall be subject to the conditions specified thereon.

[7][7-A. Number of licences to be fixed.—(1) The maximum number ences to be granted in an area shall be determined from time to by the Excise Commissioner with the previous approval of the Government.

1. Rule 4-A inserted by GSR 63, dated 8-4-1991, w.e.f. 8-4-1991.
2. Rule 5 substituted by Notification No. FD 3 PES 99(I), dated 9-6-1999, w.e.f. 1-7-1999.
3. Substituted for the words "Bar Licence" by Notification No. FD 32 PES 2002, dated 16-1-2003, w.e.f. 16-1-2003
4. Substituted for the words, letters and figures "a licence in Form CL-6A or Form CL-7 or Form CL-9" by Notification No. FD 9 PES 2009, dated 25-3-2010, w.e.f. 25-3-2010
5. Rule 5-A substituted by Notification No. FD 36 PES 2003(3), dated 23-2-2004 and shall be deemed to have come into force w.e.f. 1-2-2004
6. Rule 6 substituted by GSR 298, dated 11-10-1980, w.e.f. 11-10-1980.
7. Rule 7-A inserted by GSR 63, dated 8-4-1991, w.e.f. 8-4-1991.

(2) The number of retail vend of Beer licences to be granted in a taluk shall be determined with reference to the population of suc taluk and probable demand.

(3) The number of retail vend of Beer licences to be granted in taluk shall be as follows.—

(a) One retail vend of Beer licence for every 20,000 populatio in urban area or a fraction thereof exceeding 10,000 and one retail vend of beer licence for every 30,000 rural populatio or a fraction thereof exceeding 15,000.

(4) Notwithstanding anything in sub-rule (3) the Excis Commissioner may, with the previous approval of the State Government grant for any area such number of licences not exceedin one half of the total number of licences granted for such area unde sub-rule (3) on the basis of increase in consumption of Beer an demand for such licences.

Explanation.—For the purpose of this rule,—

(i) "Population" means the population as ascertained at the la preceding Census and includes the projected annual gro subsequent to the last preceding Census;

(ii) "Urban area" means the areas included within the lim a city declared under the Karnataka Municipal Corporatio Act, 1976 or a City Municipality or a Town Municip declared under the Karnataka Municipalities Act, 1964

8. Duration of Licence.—A licence shall be valid for the yea where a licence is obtained on any date after the first July unti 30th June thereafter.

9. Renewal of Lease.—A lessee in whose favour the lease has granted desiring to renew the lease on expiry of the lease, may an application in Form No. I to the Deputy Commissioner at leas month before the expiry of the lease already granted. The appli shall be accompanied by a Treasury challan for having credi lease amount prescribed in Rule 5.

10. Grant of Renewal of Lease.—On receipt of application rule 9, the Deputy Commissioner may grant the renewal of lea

11. Renewal of Licence.—On grant of lease under Rule 1 lessee, the Deputy Commissioner shall renew the licence for the mentioned in the lease. The renewal shall also be in Form No

12. Cash Security.—The lessee before grant of a licen furnish a cash security of Rs. 1,000 or Government Securities Securities recognised by the Government for fulfilment of conditions.

FORM I

[See Rule 3]

Application for Grant of Lease

1. Name and address of the Applicant	
2. If the applicant is a company or firm the names and addresses of the Directors or Partners of Company or Firm	
3. The location of the premises where applicant intends to conduct the business under a lease	
4. Whether [1][lease amount] prescribed under these rules is paid; if so the application shall be accompanied by a Treasury Challan for having credited the lease amount prescribed in Rule 5	

Place:
Date:

Applicant

FORM II

(See Rule 7)

PART-A

Licence for the retail sale of Beer

Registration No.	
Name of the Licensee	
Name of the Agent or Vendor...	
Locality: (a) Town (b) Street (c) Door No.	

..................the Deputy Commissioner................District ...sideration of the payment of the prescribed lease amount of [2][Rs. .... (Fill in here lease amount prescribed under Rule 5 ...e rules)] do hereby authorise Sri ....Sri)......................................residing at ....to sell

1. Substituted for the words and figures "a lease amount of Rs. 500/-" by Notification No. FD 32 PES 2002, dated 16-1-2003, w.e.f. 16-1-2003

2. Substituted for the words, figures and brackets "Rs. 4,500/- (Rupees Four thousand Five hundred only)" by Notification No. FD 32 PES 2002, dated 16-1-2003, w.e.f. 16-1-2003

beer at premises No.................situated in.................subject to ... conditions prescribed in Part 'B' appended below;

Schedule showing the Boundaries of the Beer Shop

Street, Door No. and other particulars	Bounded on the				Remarks
	North by	East by	South by	West by	

Seal

Place

Date

Deputy Commissioner

District

PART B

CONDITIONS

(1) The Licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and any general or special rules prescribed or ... may from time to time be prescribed thereunder.

(2) The privilege under this licence is restricted to [1][sale of b... bottled Beer only.]

(3) The holder of this licence shall upon requisition by any ... not below the rank of Sub-Inspector of Excise be bound to pr... before such Officer the original invoice showing the purchase ... for the sale of which this licence is granted for inspection and t... samples of Beer in the shop to be tested.

(4) The Licensee is bound to maintain separate correct acc... of daily transactions of each brand of Beer and submit the ... monthly to the jurisdictional Inspector of Excise within ... week of the next following month.

(5) The Licensee shall use metric measures only approved by ... Weights and Measure Department.

[2][(5-A) The licensee shall ensure that the bulk Beer supplied ... licenced premises shall be in hygienic condition and sold fresh...

(6) The Licence shall not be transferable without the ... sanction of the Excise Commissioner.

(7) The agent or the Vendor, as the case may be, shall equa... the Licence holder be responsible for breach of any of the co... of the Licence.

1. Substituted for the words "sale of Beer only" by GSR ... dated ... 1-10-1980.
2. Condition (5-A), inserted by GSR 53, dated 8-4-1991, w.e.f. 8-4-1991.

(8) The shop shall have only one door both for entry and exit.

(9) The Licensee shall fix in a conspicuous place outside his shop a Board, on which shall legibly be painted his name, number of his shop and the article he is licensed to deal in.

(10) If a Vendor opens a cask of a particular brand of Beer and puts on tap, he should not open another cask of the same brand until the previous cask is emptied.

(11) The Licence may be suspended or cancelled in accordance with the provisions of Section 29 of the Act and the Licensee or his employee shall be liable for prosecution of breach of any conditions of licence under the provisions of the Act or the rules and orders passed thereunder.

(12) The licence shall continue to be in force till 30th of June..................

(13) Beer shall be sold only for consumption in the premises.

(14) The opening and closing hours of the shop for sale of Beer shall be from 9-30 A.M. to 9.30 P.M.

....

Deputy Commissioner, District

FORM III

(See Rule 11)

Application for Renewal of Licence

1.	Name and address of the applicant	
2.	If the applicant is a Company or Firm the names and addresses of the Directors or Partners of Company or Firm	
3.	The location of the premises where the applicant is conducting the business under a lease	
4.	Whether the applicant/firm is licenced to vend Beer under the Karnataka Excise (Lease of right of retail vend of Beer) Rules, 1976	
5.	Particulars of licence held by him/them for retail vend of Beer	

Place:

Date:

Applicant

FORM IV

Form B.R.No. 1. *For sale of Beer in* .... *Brand* ....

Account book of .... Licence holder/retail in toddy shops.

Month	Date	Opening Balance		Receipt		Quantity	
		Bulk	Bottles	From whom	Permit No. and date	Bulk	Bottles
1	2	3	4	5	6	7	8

Total		Issues		Closing Balance		Remarks
Bulk	Bottles	Bulk	Bottles	Bulk	Bottles	
9	10	11	12	13	14	15

Signature of the Licence Holder

THE KARNATAKA EXCISE (LEASE OF THE RIGHT OF RETAIL VEND OF LIQUORS) RULES, 1969

CONTENTS

ಶಿಬಂಧಿ (3)

[1]THE KARNATAKA EXCISE (BREWERY) RULES, 1967

(As amended by GSR 92, dated 22-2-1969; GSR 111, dated 25-3-1976; GSR 189, dated 28-6-1980; GSR 141, dated 20-6-1983; GSR 243, dated 28-10-1985; GSR 214, dated 1-8-1986; GSR 296, dated 10-11-1987; GSR 67, dated 15-3-1989; GSR 171, dated 13-9-1989; GSR 129, dated 17-7-1992; Notification Nos. FD 10 PES 95(iii), dated 31-5-1995; FD 12 PES 95(ii), dated 29-6-1996; FD 325 EDC 95(iii), dated 13-2-1997; GSR 66, dated 7-6-1997; Notification Nos. FD 7 PES 98(iii), dated 18-6-1998; FD 3 PES 99(ii), dated 9-6-1999; FD 7 PES 2000, dated 24-6-2000; FD 18 PES 2001(4), dated 30-6-2001; FD 13 PES 2001(2), dated 13-7-2001; FD 15 PES 99(ii), dated 24-6-2002; FD 10 PES 2002(II), dated 29-6-2002; FD 15 PES 99(ii), dated 23-8-2002; FD 9 PES 2003(2), dated 5-6-2003; FD 16 PES 2003(iii), dated 30-6-2003; FD 36 PES 2003(2), dated 23-2-2004; FD 06 PES 2006(2), dated 19-6-2006; FD 23 PES 2006(3), dated 4-5-2007; FD 10 PES 2009(1), dated 7-1-2011; FD 62 EAA 2011(1), dated 30-4-2012; FD 3 PES 2010(1), dated 30-4-2012; FD 03 PES 2012(1), dated 31-3-2012 and **FD 03 PES 2014(III), dated 28-2-2014.**)

GSR 554.—In exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), read with Sections 13 and 16 of the said Act, the Government of Karnataka hereby makes the following rules, the draft of the same having been previously published as required by sub-section (1) of Section 71 of the said Act, in Notification GSR No. 510, in Part IV, Section 2C(i) of the Karnataka Gazette, dated the 23rd November, 1967, namely.—

1. Title, extent and commencement.—(1) These rules may be called the **Karnataka Excise (Brewery) Rules, 1967.**

(2) They shall extend to all the areas in the State of Karnataka where the Karnataka Excise Act, 1965 is in force.

(3) They shall come into force at once.

2. Definitions.—In these rules unless the context otherwise requires,—

(a) **"Act"** means the Karnataka Excise Act, 1965;

(b) **"Commissioner"** means the Excise Commissioner;

(c) **"Deputy Commissioner"** means the Deputy Commissioner of the district in which the Brewery is situated;

(d) **"Inspecting Officer"** means an Officer not below the rank of a Sub-Inspector of Excise appointed to control, supervise, inspect the operations of the Brewery and the storage and issue of Beer therefrom;

(e) "Laboratory", means the Laboratory of the Chemical Examiner to the Government of Karnataka;

(f) "Beer" means, any liquor prepared from malt or grain with or without the addition of sugar and hops and includes ale, black beer, porter, stout and spruce beer;

(g) "Brewery" means a building where Beer is manufactured, and includes every place therein where Beer is stored or issued;

(h) "Copper" means any vessel into which either worts or water is boiled or heated in the course of brewing;

[1][(hh) "Factory Out-let" means a place which is separated, but contiguous to the Brewery licence premises, where the licensee is permitted to showcase the process and the products manufactured in the Brewery along with facility to sell for consumption or otherwise of beer, serving food *etc.*, to the employees and visitors to the Brewery;]

(i) "Fermenting Vessel" means any vessel in which worts are fermented by the action of yeast;

(j) "Form" means a form appended to these rules;

(k) "Gravity" means the proportion which the weight of a liquid bears to that of an equal bulk of distilled water, the gravity of distilled water at 60° Fahr, being taken to be 1000°;

(l) "Hop-back" means any vessel into which worts are run after boiling in order to remove the spent hops;

(m) "Licence" means a licence granted for a brewery under the Act or rules framed under the Act;

(n) "Licensee" means a holder of a licence;

(o) "Mashtun" means any vessel in which malt or grain is exhausted in the course of brewing;

[2][(o1) "Microbrewery" means a small brewery with an installed capacity of not more than one thousand liters per day in a place having not less than 10,000 sq.ft. built-up area with spacious dining hall and parking facility, where Draught Beer is manufactured and the same is served to their customers for consumption within the premises;]

(p) "Racking or settling back" means any vessel into which worts are passed from a fermenting vessel and racked either at once or after a time into store vats or casks;

1. Clause (hh) inserted by Notification No. FD 3 PES 2010(1), dated 30-4-2012, w.e.f. 30-4-2012.

(q) "Sugar" means any saccharine substance, extract or syrup and includes any material capable of being used in brewing except malt or corn;

(r) "Under back" means any vessel into which worts run either from the mashtun or hop-back;

(s) "Wort" means the liquor obtained by exhaustion of malt or grain or by the solution of saccharine matter in the process of brewing.

3. Application for licence.—(1) Any person desirous of obtaining a licence for a brewery shall apply to the Commissioner in Form No. 1 through the Deputy Commissioner. The application shall be accompanied by a treasury challan for having credited the fee prescribed in Rule 5 and a full description (hereinafter called an "Entry") of the premises or the plan of the proposed building and utensils in which the purpose of and distinguishing marks on each room, place and vessels shall be clearly specified. The entry shall be checked either by the Deputy Commissioner or some other Officer duly authorised by him in this behalf, who will certify to the fact, if he finds it correct, and forward it to the Commissioner, who, if satisfied that permission may be granted to the starting of the brewery with the previous sanction of the Government issue the licence in Form No. 2.

[1][(2) The licensee under these rules may be permitted to sell bulk beer (draught beer) to persons holding licence under the Karnataka Excise (Lease of Right of Vend of Beer) Rules, 1976, on payment of [2][an additional licence fee of [3][rupees two lakhs forty thousand.]]

[4][**3-A. Licensee to sell Beer only to a Distributor Licensee.**—No licensee under these rules shall, sell beer to any person other than one holding a distributor licence under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968:

Provided that such licensee may, with the prior approval of the Excise Commissioner, sell or export beer to a Military Canteen Stores Bonded Warehouse or a Border Security Force Unit or a Para Military Unit located in the State of Karnataka or outside the State, as the case may be, and also export beer outside the State to any person holding a licence:

Provided further that such licensee may, sell draught beer (bulk beer) to a person holding a retail vend of beer licence under the Karnataka Excise (Lease of Right of the Retail Vend of Beer) Rules, 1976.]

[5][**3-A. Licence for factory out-let.**—(1) Any holder of Brewery licence desirous to showcase the process and to sell draught beer or bottled beer and the products manufactured in the licensed premises may apply to the

1. Sub-rule (2), inserted by GSR 67, dated 15-3-1989, w.e.f. 16-3-1989.
2. Substituted for the words "additional licence fee equivalent to ten per cent of the brewery licence" by GSR 129, dated 17-7-1992, w.e.f. 1-7-1992.
3. Substituted for the words "rupees two lakhs" by Notification No. FD 7 PES 2000, dated 24-6-2000, w.e.f. 1-7-2000.
4. Rule 3-A inserted by Notification No. FD 16 PES 2003(iii), dated 30-6-2003, w.e.f.

Commissioner in Form 6 through the Deputy Commissioner along with a challan for having paid the licence fee of rupees two lakh per year. The application shall be accompanied with full description of area separated from manufacturing area, seating arrangement, plan, refreshment room with sufficient accommodation and separate toilet with running water facilities. If the Commissioner is satisfied that licence in Form 7 may be granted to sell bulk beer and bottled beer, he shall issue the same.

(2) The licensee under sub-rule (1) intend to showcase and sell the bottled beer and serve for consumption, he shall obtain the same from KSBCL in accordance with the Karnataka Excise (Possession, Transport, Import and Export of Intoxicants) Rules, 1967.

(3) The licensee under sub-rule (1) shall lift the bulk beer only against the permits issued by the excise officer in charge of brewery in accordance with the Karnataka Excise (Possession, Transport, Import and Export of Intoxicants) Rules, 1967.

(4) The licensee under sub-rule (1) shall issue only bulk beer not exceeding four liters to an employee or a casual visitor of the brewery.

(5) The licensee under sub-rule (1) shall maintain daily accounts and Stock Book-1 as prescribed in Form 8.]

[1][**3-B. Transfer of licence in the event of death of the licensee or lessee.**—In the event of death of the licensee or the lessee, during the currency of the licence or lease, the Excise Commissioner may on an application by the legal heir of the deceased licensee or lessee, transfer the licence or the lease as the case may be in his/her favour, if such legal heir is otherwise eligible for grant of licence under the provisions of the Act or rules made thereunder.

3-C. Transfer of licence in other cases.—(1) The Excise Commissioner may on an application by the licensee and subject to payment of transfer fee equivalent to twenty-five per cent of the annual licence fee specified in Rule 5, as the case may be, transfer such licence together with all infrastructure pertaining to the industry in favour of any person named by such licensee, if such person is eligible for grant of a licence under the Act or the rules thereunder.

(2) Nothing in these rules shall apply to transfer of licence under Rule 3-B.]

4. Renewal of licence.—(1) Applications for renewal of licences shall be presented at least one month before they expire. Such applications shall be made to the Commissioner through the Deputy Commissioner and it shall be accompanied by a treasury challan for having credited the fee prescribed in Rule 5.

(2) The Commissioner may, if satisfied that the licence may be renewed, renew the same.

[1][**5. Fee for grant or renewal of Licence.**—The fee for grant or renewal of a Brewery licence shall be [2][rupees twenty-seven lakhs] per year.]

[3][**5-A. Additional lease amount.**—In respect of a licence granted under these rules, an additional licence fee equivalent to fifteen per cent of the licence fee levied under Rule 5, shall be levied for the purpose of various infrastructure projects across the State, equity investment in Bangalore Mass Rapid Transit Limited and for establishing a Mukhya Manthri Grameena Rasthe Abhivruddhi Nidhi in the proportion of 57:28:15 respectively.]

[4][**5-B. Disqualification.**—(1) A person shall be disqualified from submitting an application for obtaining or renewal of licence under these rules if he.—

(i) has not paid the arrears of any excise dues in respect of liquor sold by him; or

[5][(ii) has not produced a valid income-tax clearance certificate or has not produced any document in proof of filing the latest income-tax return before the Income-tax Department in respect of his income;]

(iii) is holding an office of profit under the State Government or Central Government;

(iv) is a minor or an undischarged insolvent or is of unsound mind;

(v) has been convicted of any cognisable and non-bailable offence under any Act, or any offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 and Medicinal and Toilets Preparation (Excise Duties) Act, 1955, or an offence under Section 481, 482, 483, 484, 485, 486, 487 or 489 of the Indian Penal Code, 1860.

Explanation.—For the purposes of this rule, a company, firm or other body corporate shall be deemed to have incurred the disqualification if the person in charge of and responsible for the conduct of the business of such company, firm or other body corporate has incurred the disqualification:

[6][Provided that the authority which grants or renews the licence may in the interest of revenue and for any other reason to be recorded in writing relax the provisions of clause (i) and grant or renew the licence.]

1. Rule 5 substituted by GSR 214, dated 1-8-1986 and shall be deemed to have come into force w.e.f. 1-7-1986.
2. Substituted for the words "rupees eighteen lakhs" by Notification No. FD 03 PES 2014(III), dated 28-2-2014, w.e.f. 1-7-2014.
3. Rule 5-A substituted by Notification No. FD 36 PES 2003(2), dated 23-2-2004 and shall be deemed to have come into force w.e.f. 1-2-2004.
4. Rule 5-B inserted by Notification No. FD 15 PES 99(ii), dated 24-6-2002, w.e.f. 24-6-2002.
5. Clause (ii) substituted by Notification No. FD 15 PES 99(ii), dated 23-8-2002 and shall be deemd to have come into force w.e.f. 24-6-2002.

(2) A person shall not be disqualified under clause (i) of sub-rule (1) if he produces a certificate from a competent Revenue or Excise Officer to the effect that the arrears have been paid.]

[1][5-C. **Fee for granting permission for subleasing of brewery.**—The Excise Commissioner may, on an application made by the licensee, permit subleasing of the brewery licence held by the licensee in favour of any person named by such licensee, who is eligible for grant of licence under the Karnataka Excise Act, 1965 or the rules made thereunder, on payment of ten per cent of the licence fee levied for grant of licence for a brewery under Rule 5, as additional licence fee at the time of granting permission for subleasing and thereafter at the time of renewal of licence every year as long as the sublease continues.]

6. **Duration of licence.**—Every licence granted or renewed under these rules shall not be for a period exceeding one year.

7. **Security to be taken.**—Every licensee shall execute an agreement binding himself, his heirs, legal representatives and assigns to observe the conditions of the licence, hypothecating the brewery buildings, machinery, apparatus together with the stock of Beer, etc., as security for the payment of money which may be due to Government by way of duty, rents or other payment due under the provisions of his licence. If the agreement is not Executed within ten days from the date of approval of the application for licence, the licence shall be cancelled and the licensee shall not be entitled for refund of the fee paid.

[2][7-A. **Deputation of Supervisory Staff.**—The Commissioner may depute such number of Excise Officers as may be necessary at the Brewery for supervision to ensure compliance with the provisions of the Act, Rules made thereunder and the licence. [3][x x x x x.]

[4][7-B. **Attendance of Officers.**—(1) The Deputy Commissioner, with the previous sanction of the Commissioner, shall fix the working hours of the Excise Supervisory staff posted to the Brewery, which shall not exceed eight hours on working days.

(2) If the licensee requires the services of the Excise Supervisory staff, beyond the working hours fixed and on holidays and Sundays, he shall make a requisition in advance in writing to the Inspecting Officer. The Inspecting Officer shall permit the licensee to avail the services of the Excise Supervisory staff [5][x x x x x]].

1. Rule 5-C inserted by Notification No. FD 9 PES 2003(2), dated 5-6-2003, w.e.f. 1-7-2003.
2. Rule 7-A inserted by GSR 111, dated 25-3-1976, and shall be and shall always deemed to have been inserted w.e.f. 1-4-1976.
3. The words "The cost of the establishment including pay, Leave salary and pensionary contribution in respect of such officers shall be paid by the Licensee in advance" omitted by Notification No. FD 06 PES 2006(2), dated 19-6-2006 and shall be deemed to have come into force w.e.f. 1-4-2006.
4. Rule 7-B inserted by GSR 296, dated 10-11-1987, w.e.f. 10-11-1987.
5. The words "subject to the payment of overtime charges at twice the rate of usual emoluments. Every fraction of an hour not less than fifteen minutes shall be treated as one hour for the purpose of payment of overtime charges. If the [illegible]

8. **Control.**—The Inspecting Officer shall take an account of all the operations in the Brewery and it shall be competent for him or any other Officer authorised to inspect the brewery, to enter the building and to visit and examine any room, place or utensil mentioned in the entry at any time either by day or night.

[1][8-A. **Chemical Laboratory.**—(1) The licensee shall establish a well-equipped Chemical Laboratory to the satisfaction of the Excise Commissioner within the premises of the brewery to check the quality of raw materials used and the liquor produced in the brewery which shall be manned by a chemist holding a degree in science with Chemistry as one of the subjects, preferably Organic Chemistry or Bio-Chemistry or specialisation in Alcohol Technology.

(2) The beer produced in the brewery shall be released for sale only after the Chemist referred to in sub-rule (1) certifies that, such beer is fit for human consumption.]

9. **Vessels in Brewery.**—All mashtuns, coppers, coolers, fermenting and racking or settling vessels shall be so placed and fixed and backs so placed as to admit of the contents being accurately gauged or measured. Before taking into use all such vessels shall be gauged by the Inspecting Officer or by such any other Officer as may be deputed by the Deputy Commissioner for the purpose, in the presence of the licensee or his authorised agent, and the tables shall be constructed for showing the total capacity of each vessel in litres and in the case of mashtuns, racking or settling vessels, its capacity for each 1/2 c.m. in depth. In the case of underbacks, coppers and cooler, dimension tables only need be constructed.

10. **Name of each room or vessel to be distinctly marked.**—The name or an abbreviation thereof of each room or vessel shall be conspicuously marked and where more than one room or vessel is used for the same purpose they shall be distinguished by progressive numbers. Any room or vessel entered for a specific purpose shall be used for that purpose only.

11. **Alterations, Repairs, etc.**—No repairs shall be executed or additions or alterations made to either the buildings or the plant without the sanction in writing of the Commissioner. Minor repairs may be made with the written permission of the Deputy Commissioner.

12. **Storage of Beer in Casks.**—Where Beer is stored in casks which are used exclusively for storing and not for issue from the brewery, such casks shall be numbered consecutively and each shall have mark on both heads, its number and capacity which shall be entered in the register kept by the brewer in the form prescribed by the Commissioner and also the number of brew in which the Beer was manufactured.

13. **Gauging Rods.**—The Inspecting Officer shall be provided with proper gauging rods and standard saccharometer and Thermometer to which the licensee has got the approval of the Commissioner.

emoluments" omitted by Notification No. FD 06 PES 2006(2) [illegible]

14. Brewing Book.—The licensee shall keep in the Brewery, a brewing book supplied by the Commissioner. This book shall be the property of Government which shall be accessible for inspection by the Inspecting Officer or any other Officer authorised in this behalf. This shall be replaced every quarter. The entries in this book shall be made by any responsible employee of the licensee, approved by the Deputy Commissioner. There shall be no mutilations or defacement of the entries already made.

15. Brewing Book maintenance.—The brewer shall enter in the proper columns atleast twenty-four hours before beginning to mash malt or grain or to dissolve sugar, the day and hour of brewing and in the "Remarks" column, the consecutive number of the brew and the word "Indian" or "English" as the case may be with date and hour of making entry, and atleast six hours before the time entered for mashing or dissolving, he shall enter separately in the proper columns the quantities of malt or unmalted corn, sugar and of hops or hop-substitutes to be used and the hour when all the worts will be drawn off the grains in the mashtun. He shall also enter in the appropriate columns the dip and gravity of worts collected, the number and description of the vessel or vessels in which they have been collected and the date and hour of the entry. Such entry shall be made within one hour after the collection has been completed and if the worts are not collected before 6 p.m., the entry shall be made before 8 a.m. next morning. If fermentation has started before the requisite entry is made, the brewer shall enter the true original gravity of worts. Each entry shall be initialled by the brewer or his agent.

16. Brewing.—Beer shall be brewed from good materials and its quality shall be such as to satisfy the Commissioner. Wort shall not be brewed of a higher gravity than 1073°. Nothing shall be added to Beer after it has been racked and removed to a Beer store except fining or other materials approved by the Commissioner. Beer, in beer stores must not be diluted and any beer found in stores must not be diluted and any beer found adulterated will be liable to forfeiture. The forfeiture of beer, will not relieve the brewer from the penalty of fine or cancellation of licence prescribed under Rule 23.

17. Surveys.—Officers surveying of breweries shall make complete survey of the whole of the brewery room every day on which they will visit the brewery showing in the proper columns in the survey book, the form of which will be prescribed by the Commissioner, the condition of each vessel and the dip and gravity of each vessel containing fermenting worts, unless such wort shall be fining, when, except in case of suspicion of fraudulent addition or removal of worts, the surface need not be broken. A copy of each survey will be made in a similar book and will be left at the brewery for the information of the brewer.

18. Stock Book.—The licensee shall keep a stock account in such form as may be required by the Commissioner in which he shall duly enter the net quantity of beer brewed, the quantity, if any, returned and brought into stock after verification by the authorised Officers and the total quantity issued. Each issue within the State shall be accompanied by a permit in Form No. 3

Commissioner. The stock book shall be checked atleast once in a week by the Inspecting Officer.

19. Corrections, *etc.*, in the accounts.—No entry in any of the books kept by the brewer under these rules shall be erased or overwritten. If there may be any need of correction of any entry, a circle in red ink or pencil should be drawn around the incorrect entry and correct entry be made with the initials of the person incharge. The Inspecting Officer shall initial the corrections during his next inspection. Grave errors shall be reported to the Deputy Commissioner by the Inspecting Officer and his directions shall be acted upon.

20. Samples.—Samples of wort in any stage of fermentation or of stored beer may be taken for analysis without payment by the Inspecting Officer or any Authorised Officer. The Inspecting Officer shall at least once in a quarter, forward the samples of wort in fermentation to the laboratory for analysis. On any other occasion. When the samples of wort or beer are taken, the Inspecting Officer shall submit a special report to the Deputy Commissioner explaining the reasons and the nature of analysis required. Samples of brewing material shall be taken only if required, by the Commissioner. When, however, there is large discrepancy between the quantity of malt or unmalted corn entered in the brewing book and that of the grains in the mashtun, a sample of the grains should be taken and at once sent for analysis with a copy of entry in the brewing book, the dip of the grains in the mashtun, the quantity represented by the dip and the percentage or increase or decrease. On this report and after examination of the samples, the Commissioner will pass such orders as he thinks fit.

21. Stock taking.—The stock of the beer in every brewery shall be taken atleast twice in each year by the Inspecting Officer or such other Officer authorised. Stock shall only be taken at other times by the Inspecting Officer or any other Officer so authorised, if there is any suspicion of fraudulent practices. In the former case immediate report shall be submitted to the Deputy Commissioner and in the latter, to the Commissioner, along with the explanation of the brewer for any excess or deficiency exceeding one per cent and any orders passed thereon shall be executed.

22. The charging and collection of duty.—The duty on all the beer from the brewery for the purpose of consumption shall be paid at such rate as may be prescribed by the Government from time to time, into the Government Treasury, and the relative challan produced before the issue of the necessary permits. The Inspecting Officer shall submit a statement showing the quantity of beer issued and the amount of duty collected thereon every month to the Deputy Commissioner and a copy to the Commissioner.

23. Refund when and how made.—Where it is found that the brewer has paid any excess amount, he may claim its refund and if on verification his claim is found to be correct, the amount shall be refunded or adjusted towards the duty on any subsequent issues, the relevant entries being made under the initials of the Inspecting Officer in the permits towards which the

[1][24. **Quarters.**—x x x x x.]

25. Breach of Rules.—In case of any breach of these rules or conditions of licence either by the licensee or by his employees, the Commissioner may suspend or cancel the licence or both and the licensee shall not be entitled to any compensation. The suspension or cancellation shall not prevent the prosecution of any person for any offence which he may commit against the provisions of the Karnataka Excise Act, 1965 or other law for the time being in force. If, on prosecution, the licensee or his employee is convicted by the Court. It shall be lawful for the Commissioner to declare his licence forfeited.

26. The licensee to be bound by all additional Rules.—The brewer (licensee) shall be bound by all the additional rules for the control of breweries which may hereafter be prescribed under the existing law or under any law which may hereafter be enacted and by all special orders issued by the Commissioner with regard to individual brewery and shall cause all persons employed by him in his breweries to obey all such rules.

27. Appeal.—(1) Except as otherwise provided, an appeal shall lie,—

(a) to the Deputy Commissioner from any order or proceedings taken under these rules by the Inspecting Officer or any other Officer authorised by him;

(b) to the Commissioner from any order passed or proceedings taken or any appellate order passed by the Deputy Commissioner.

(2) The appeal under clause (a) of sub-rule (1) shall be preferred within sixty days and the appeal under clause (b) of sub-rule (1) shall be preferred within ninety days of the communication of the order appealed against.

[2][**27-A. Grant of licence for Microbrewery.**—Any person who desirous of obtaining a licence for a Microbrewery shall apply to the Excise Commissioner in Form 4 through the Deputy Commissioner. The Application shall be accompanied by a treasury challan for having credited the fee specified in sub-rule (2) and full description of the premises, utensils and installed capacity of the Plant per day. The detailed in the application shall be checked either by the Deputy Commissioner or some other Officer duly authorised by him in this behalf, who shall certify to the fact, if he finds it correct, and forward it to the Commissioner. The Commissioner may grant Microbrewery licence subject to conditions and restrictions specified in the Karnataka Excise Licences (General Conditions) Rules, 1967.]

28. Repeal and Savings.—All rules corresponding to the foregoing rules framed under any enactment repealed by Section 72 of the Act are hereby repealed:

Provided that the repeal shall not effect,—

(a) the previous operation of the rules so repealed or anything duly done or suffered thereunder, or

1. Rule 24 omitted by Notification No. FD 62 EAA 2011(1), dated 30-4-2012, w.e.f. 30-4-2012.

(b) any right, privilege, obligation or liability accrued or incurred under any rule so repealed, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any rule so repealed, or

(d) any investigation or legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if such rules had not been repealed:

Provided further that subject to the preceding proviso anything done or any action taken (including any appointment or delegation made, notification order, instructions or direction issued, form, certificate obtained, permit or licence granted or registration effected under any such rules), shall be deemed to have been done or taken under the corresponding provisions of these rules and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under the Act or these rules, as the case may be.

FORM 1

[See Rule 3]

APPLICATION FOR THE BREWERY LICENCE

To Court fee stamp of Rs. 2

The Excise Commissioner in Karnataka, Bangalore.

1. Name or names of the applicant with full postal address.

2. The amount of capital proposed to be invested.

3. The name of the place and the site in which the building for housing the brewery is situated (description and plans of the building to be furnished).

4. Description of the vessels and other permanent apparatus.

5. Approximate production capacity of the Brewery.

6. Date from which the applicant desires to start the Brewery.

[1][7. x x x x x]

[2][8. x x x x x]

9. Whether the applicant has enclosed the treasury challan for having credited the prescribed licence fees in favour of the Government.

DECLARATION

1. I/We hereby declare that the particulars mentioned in the application are correct.

1. Entries relating to Sl. No. 7 omitted by Notification No. FD 06 PES 2006(2), dated 19-6-200 and shall be deemed to have come into force w.e.f. 1-4-2006.

Annexure - 4

[1]THE KARNATAKA EXCISE (LEASE OF THE RIGHT OF [2][RETAIL VEND OF WINE OR FORTIFIED WINE]) RULES, 2008

(As amended by Notification Nos. FD 20 PES 2005, dated 22-6-2009 and FD 03 PES 2012(IV), dated 31-3-2012)

Whereas, the draft of the Karnataka Excise (Lease of Right of Retail Vend of Wine) Rules, 2008 was published as required by sub-section (1) of the Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), in Notification No. FD 20 PES 2005(I), Bangalore, dated 1st July, 2008, in Part IV, Section 2-C(1) of the Karnataka Gazette, Extraordinary No. 673, dated 1st July, 2008, inviting objections and suggestions from all persons likely to be affected thereby within thirty days from the date of publication of the draft in the Official Gazette.

And whereas, the said Gazette was made available to the public on 1st July, 2008.

And whereas, the objections and suggestions received within the period specified above, have been considered by the Government.

Now, therefore, in exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1965), the Government of Karnataka hereby makes the following rules, namely.—

1. Title and commencement.—(1) These rules may be called the Karnataka Excise (Lease of the Right of [2][Retail Vend of Wine or Fortified Wine]) Rules, 2008.

(2) These rules shall come into force from the date of their publication in the Official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires,—

(1) "Act" means the Karnataka Excise Act, 1965;

(2) "Form" means a form appended to these rules;

(3) "Fortification" means the process of manufacturing fortified wine;

1. Published in the Karnataka Gazette, Extraordinary No. 1078, dated 27-9-2008, vide Notification No. FD 20 PES 2005(III), dated 27-9-2008.

2. Substituted for the words "Retail Vend of Wine" by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.

[1][(4) "Fortified wine" means Wine or Fruit Wine, the alcoholic strength of which has been increased by the addition of Neutral Spirit or Rectified Spirit or pure fruit Brandy and which has alcoholic strength of not more than 16% volume by volume and fruit wine content of not less than 7% volume by volume;]

(5) "Lease" means the lease of the right of the retail vend of wine granted under these rules;

(6) "Licence" means a licence issued under these rules;

(7) "Wine" means the fermented juice of ripe grapes or other fruits with or without the addition of sugar or jaggery, containing self-generated alcohol, including sparkling wine but does not include fortified wine;

(8) "Year" means the year commencing on the first day of July and ending with the 30th day of June of the next calendar year;

(9) "Wine tavern" means a place for [2][retail vend of wine or fortified wine] for consumption with or without eatable.

[3][(10) "Wine boutique" means a place for [4][retail vend of wine or fortified wine] in sealed bottles only;]

3. **Application for grant of lease.**—[5][(1) [6][An application for lease of right for retail vend of wine or fortified wine] in a wine tavern or/in a wine Boutique or for both shall be made to the Deputy Commissioner of the district in Form LFW-I accompanied by a treasury challan for having credited the lease amount to the Government.

(2) The Deputy Commissioner shall while granting licence under these rules have due regard to.—

(a) in case of a Wine Tavern.—

(i) the availability of rooms for serving wine along with eatables for consumptions;

(ii) adequate seating arrangements;

(iii) the provision for separate toilet with running water facilities for men and women;

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1. Clause substituted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
2. Substituted for the words "retail vend of wine" by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
3. Clause (10) inserted by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009.
4. Substituted for the words "retail vend of wine" by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
5. Sub-rules (1) and (2) substituted by Notification No. FD 20 PES 2008, dated 22-6-2009, w.e.f. 23-6-2009.
6. Substituted for the words "An application for lease of right of retail vend of wine" by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.

(b) in case of Wine Boutique.—

(i) that a minimum built up floor area of 200 sq. ft. of RCC; or

(ii) if the licence is located in any super markets, mall etc., the total floor area of such super market etc., less than 15,000 sq. ft.]

(3) Where the applicant for a licence is a firm, the name particulars of all the partners shall be mentioned in the applicat licence is granted to the applicant, the names of all the partners shall be entered in the licence. No additional partners shall be admitted to the firm after the granting of a licence unless the Deputy Commissioner on an application made to him in writing agrees to alter the licence, and to add the name or names of the partners in the licence.

4. **Grant of lease.**—On receipt of the application under Rule 3, the Deputy Commissioner after such enquiry as he deems fit, and if he is satisfied may grant the lease for the retail sale of wine in Form LFW-II.

[1][5. **Lease Amount.**—The amount for grant of lease shall be rupees one thousand for wine tavern and rupees five thousand for a wine boutique per annum].

6. **Security.**—The lessee shall before grant of licence furnish a sum of rupees one thousand by way of security either in cash or securities approved by the Government for the fulfillment of the conditions of the licence.

7. **Licence.**—(1) The Deputy Commissioner after the grant of lease under Rule 4 and on furnishing of security by applicant under Rule 6 shall issue a licence to the lessee in Form LFW-III.

(2) The licence granted under sub-rule (1), shall be subject to the conditions specified therein and valid for a year or where the licence obtained on any date after the first day of July until the 30th day of June of the next calendar year.

8. **Renewal of lease.**—(1) The lessee shall apply for renewal of lease in Form LFW-I to the Deputy Commissioner thirty days before the expiry of lease granted under Rule 4, accompanied by a treasury challan for having credited the prescribed lease amount.

(2) On receipt of the application under sub-rule (1), the Deputy Commissioner may renew the lease for a period of one year.

9. **Renewal of licence.**—On the renewal of lease under Rule 8, the Deputy Commissioner shall renew the lease in Form LFW-II and issue a licence to the lessee in Form LFW-III.

10. **Occasional licence.**—The Deputy Commissioner may issue an occasional licence in Form LFW-IV for [2][sale and consumption of Wine or Fortified Wine at Wine festivals/fares] conducted by the Karnataka Wine

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1. Rule 5 substituted by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009.
2. Substituted for the words "sale and consumption of Wine at Wine festivals/fares" by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.

Board or for consumption on such other occasion or gathering as the Deputy Commissioner may deem fit at a fee of Rs. 1000/-per day.

[1][10-A. Sale of Wine or Fortified Wine.—The distributor Licensee under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 may sell Wine or Fortified Wine to a person holding a licence under these rules.]

11. Repeal and savings.—Karnataka Excise (Lease of the Right of Retail Vend of Wine) Rules, 1985 are hereby repealed:

Provided that the said repeal shall not affect the previous operation of the said rules or anything duly done or suffered thereunder or affect any right, liability or obligation acquired or accrued under the said rules.

FORM LFW-I

[See Rule 3]

[2][Application for grant of lease to retail sale of wine [3][or fortified wine]]

1. Name and address of the applicant
2. If the applicant is a company/firm the name and addresses of the Directors of Company/partners of the firm
3. The location of the premises where the applicant desires to sell the wine [4][or fortified wine] with boundaries:
   - [5][(a) in the wine tavern; or
   - (b) in the wine boutique or both.]
4. Whether the prescribed fee amount has been paid? If so, the treasury, challan number and date for having credited the lease amount
5. Whether the following documents are enclosed?
   - (a) Original Treasury Challan
   - (b) Blue print of the premises/taverns in triplicate
6. Name and address of the employees if any?

Date: Signature of the applicant.

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1. Rule 10-A inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
2. Substituted for the heading "Application for grant of lease to sell wine" by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009.
3. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
4. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.

[1][FORM LFW-II

[See Rule 4]

Lease for the Retail Sale of Wine [2][or Fortified Wine]

1. Registration No.:
2. Name and address of the licensee:
3. Name of the employee:
4. Location of the premises/wine tavern:
   - (a) Door No.:
   - (b) Street.:
   - (c) Location of the wine tavern/wine boutique:
   - (d) City/Town/Village:

I .... the Deputy Commissioner .... District i consideration of the payment of the lease amount of Rs. 1,000 (Rupee Thousand only) in case of wine tavern and Rs. 5,000 (Rupees Five thousan only) in case of wine boutique do hereby authorise Sri .... S/ ....residing at .... to sell wine [3][or fortified wine] at premises N .... situated in .... subject to the conditions specified in th licence Form LFW-III.

Schedule showing the boundaries of the premises/wine taverns/wir boutique.

Date: Signature of the Issuing Authority with seal.

FORM LFW-III

[See Rule 7]

Licence for the Retail Vend of Wine [4][or Fortified Wine]

1. Register No.
2. Name of licencee
3. Name of the employee
4. [5][4. Place: Premises/wine tavern/wine boutique.—
   - (a) Door No.

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1. Form LFW-II substituted by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009.
2. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
3. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
4. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.

[1][4-B. **Disqualification.**—(1) A person shall be disqualified from submitting an application for obtaining or renewal of licence under these rules if he.—

(i) has not paid the arrears of any excise dues in respect of liquor sold by him;

[2][(ii) has not produced a valid income-tax clearance certificate or has not produced any document in proof of filing the latest income-tax return before the Income-tax Department in respect of his income;]

(iii) is holding an office of profit under the State Government or Central Government;

(iv) is a minor or an undischarged insolvent or is of unsound mind;

(v) has been convicted of any cognisable and non-bailable offence under any Act, or any offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 and Medicinal and Toilets Preparation (Excise Duties) Act, 1955, or an offence under Section 481, 482, 483, 484, 485, 486, 487 or 489 of the Indian Penal Code, 1860.

Explanation.—For the purposes of this rule, a company, firm or other body corporate shall be deemed to have incurred the disqualification if the person in charge of and responsible for the conduct of the business of such company, firm or other body corporate has incurred the disqualification.

[3][Provided that the authority which grants or renews the licence may in the interest of revenue and for any other reason to be recorded in writing relax the provisions of clause (i) and grant or renew the licence.]

(2) A person shall not be disqualified under clause (i) of sub-rule (1) if he produces a certificate from a competent Revenue or Excise Officer to the effect that the arrears have been paid.]

[4][5. **Grant of Licence.**—On receipt of the application under Rule 4, [5][and subject to the provisions specified in Rule 4-A] the Deputy Commissioner or the Excise Commissioner, as the case may be, may require such other particulars as he may deem necessary and may make inquiries for verification of the particulars furnished by the applicant and also such other inquiries as he deems fit. If the Deputy Commissioner or the Excise Commissioner, as the case may be is satisfied that there is no objection to grant the licence applied for, he may grant the licence on payment of the fee prescribed under Rule 8 for such licence:

1. Rule 4-B inserted by Notification No. FD 15 PES 99(I), dated 24-6-2002, w.e.f. 24-6-2002.
2. Clause (ii) substituted by Notification No. FD 15 PES 99(I), dated 23-8-2002 and shall be deemed to have come into force w.e.f. 24-6-2002.
3. Proviso inserted by Notification No. FD 15 PES 99(I), dated 23-8-2002 and shall be deemed to have come into force w.e.f. 24-6-2002.
4. Rule 5 substituted by GSR 344, dated 14-10-1976, w.e.f. 26-10-1976.

Provided that no such licence shall be granted by the Deputy Commissioner except with the previous sanction of the Excise Commissioner.]

[1][Provided further that while considering the applications for grant of [2][or CL-7D] licence, the Deputy Commissioner shall ensure that the applica... in a position to provide good accommodation and facilities to the customers... the standard of refreshments, food and service are provided for. If the De... Commissioner is of the opinion that the hotel or the boarding house does... conform to the minimum standard required for running a hotel or boar... house or not suitable to grant licence, he may reject such application after gi... reasons therefor.]

CASE LAW

R. 5 — Licence — Grant of.

Jagannatha Shetty, J.—A rival trader has no right to be heard b... considering an application for licence. The grant of licence under the E... Rules is not controlled by the population of the area — *Sardar Ratan Si... Excise Commissioner*. 1974(2) Kar. L.J. Jr. 75 Sh.N. 207.

Rule 5 — Original licence was issued — Writ seeking renewal of licence — Due enquiry followed — Application for renewal under Rul... for the year 2014-2015 filed — Deputy Commissioner called upo... petitioners to furnish copies of records of the building as well a... conversion order for diversion of the land over which the shop premise... constructed — Deputy Commissioner did not exercise of jurisdiction v... in him — Held, petitions are allowed in part and the Deputy Commiss... is directed to consider petitioners' application for renewal of CL-2 lice...

Ram Mohan Reddy, J., *Held*: Petitioners when issued with CL-2 licence... due enquiry and following Rule 5 of the Karnataka Excise (Sale of India... Foreign Liquors) Rules, 1968, filed an application for transfer of licence... Kundapur to Udupi in the year 2009, whence Deputy Commissioner h... regard to Rule 23 of the Karnataka Excise Licences (General Condi... Rules, 1967 and Rule 5 over restriction of location of the shop permitt... shifting to Udupi. Thereafterwards, on an application under Rule 5-A Rules, licence was renewed for the years 2010-2011, 2011-2012, 2012-201... 2013-2014. . . . . . . The fact that the Deputy Commissioner did not exe... jurisdiction vested in him under Rule 5-A to dispose of the petiti... application before 30-6-2014 is a clear indicator of denial of the petiti... right of renewal. Although learned HCGP submits that there is no de... exercise of jurisdiction, yet again, I am afraid the very fact that he d... exercise jurisdiction vested in him before 30-6-2014 tantamour... non-exercise of jurisdiction vested in him, calling forth interference. *Saritha S. Hegde and Another v. The Deputy Commissioner, Udupi D... Manipal and Another*, 2014(4) Kar. L.J. 365.

1. Second proviso to Rule 5 inserted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
2. Inserted by Notification No. FD 09 PES 2014(I), dated 15-12-2014, w.e.f. 16-12-20...

Annexure-5

[1]THE KARNATAKA EXCISE LICENCES (GENERAL CONDITIONS) RULES, 1967

(As amended by GSR 171, dated 6-5-1969; GSR 384, dated 4-11-1969; GSR 482, dated 12-12-1969; GSR 107, dated 18-8-1970; GSR 359, dated 3-12-1975; GSR 50, dated 12-2-1976; GSR 223, dated 27-7-1976; GSR 141, dated 5-5-1977; GSR 215, dated 17-7-1978; GSR 250, dated 24-8-1979; GSR 142, dated 24-5-1980; GSR 282, dated 23-9-1980; GSR 143, dated 25-6-1983; GSR 99, dated 30-9-1985; GSR 16, dated 6-2-1990; GSR 26, dated 5-2-1992; GSR 4, dated 8-1-1993; GSR 127, dated 21-6-1993; GSR 24, dated 6-12-1993; Notification No. FD 22 PES 93(ii), dated 9-5-1994; GSR 119, dated 19-7-1994; GSR 132, dated 12-8-1994; GSR 156, dated 22-9-1994; GSR 184, dated 28-11-1994; GSR 64, dated 23-5-1995; GSR 58, dated 17-4-1996 Notification Nos. FD 5 PES 2000, date 28-4-2000; FD 9 PES 99, dated 27-11-2000; FD 28 PES 2001, dated 8-1-2002; FD 27 PES 2001, dated 19-2-2002; FD 8 PES 2002, dated 6-5-2002; FD 6 PES 2003, dated 30-6-2003; FD 10 PES 96(II), dated 6-4-2004; FD 25 PES 2003, dated 20-6-2006; FD 03 PES 2007(2), dated 25-5-2007; FD 7 PES 2008(II), dated 15-1-2009; FD 11 PES 2009, dated 9-2-2010; FD 05 PES 2012(1), dated 28-2-2013 and FD 03 PES 2014(V), dated 28-2-2014.)

GSR 469.—In exercise of the powers conferred by Section 71 of the Karntaka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of Karnataka hereby makes the following rules, the draft of the same having been previously published, as required by sub-section (1) of Section 71 of the said Act, in Notification GSR No. 434 in Part IV, Section 2C(i) of the Karnataka Gazette, Extraordinary, dated 30th September, 1967, namely.—

1. Title, extent and commencement.—These Rules may be called the Karnataka Excise Licences (General Conditions) Rules, 1967.

(2) They shall extend to all the areas of State of Karnataka, where the Karnataka Excise Act, 1965, is in force.

(3) They shall come into force at once.

2. Application.—These rules shall apply to all licences issued under the Karnataka Excise Act, 1965 for sale of liquors and every such licence shall be deemed to include the conditions prescribed by these rules as general conditions.

[2][**3. Definitions.**—In these rules unless the context otherwise requires—

1. Published in the Karnataka Gazette, Extraordinary, dated 19-10-1967, vide Notification No. HD 76, EFL 67, dated 19-10-1967.
2. Rule 3 substituted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.

THE KARNATAKA EXCISE LICENCES (GENERAL CONDITIONS) RULES, 1967

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A KLJ PUBLICATION

(1) "Educational Institution" means a Pre-Primary, Primary or Secondary School owned or managed or recognised by any local authority, State or Central Government or any College affiliated to or established or managed by any University established by law.

(2) "Licensee" means a person to whom a licence to sell Liquor is granted.

(3) "Religious Institution" means a temple, mutt, mosque, church, synagogue, agiary or other place of public religious worship which is as the case may be, established or managed or owned by a public trust, the Religious and Charitable Endowments Commissioner or a Society registered under the Societies Registration Act or Wakf Board Act.

(4) "Shop" means the licensed premises where liquor is sold].

4. Commencement of business.—Licensee shall commence his business on the 1st July or such date as may be notified by the Excise Commissioner and shall keep open on every day during such hours as may be fixed by the Excise Commissioner.

Explanation.—Any shop shall be deemed to be open when in the case of liquor shop so much of stock is always kept in the shop so as to meet the requirements for a week and in case of toddy shops to the extent of daily requirements.

[1][4-A. **Closure of shops on certain occasions.**—A licensee may after information to the concerned Sub-Inspector of Excise, Close the shop on the following occasions, namely.—

(a) on the day of a marriage in his family; or

(b) on the day of the occurrence of a death or accident in his family.]

[2][5. **Restriction in respect of location of shops.**—(1) No licence for sale of liquor shall be granted to a liquor shop or premises selected within a distance of 100 metres from any religious or educational institution or Hospital or any Office of the State Government or Central Government or Local Authorities or in a residential locality, where the inhabitants are predominantly belonging to Scheduled Castes or Scheduled Tribes or within a distance of 220 metres from the middle of the State Highways or National Highways:

[3][Provided that where a shop is sanctioned to a village the population of which is less than two thousand five hundred, such shop shall be located outside the residential locality of the village.]

1. Rule 4-A inserted by GSR 99, dated 30-3-1988, w.e.f. 10-4-1988
2. Rule 5 substituted by GSR 127, dated 21-6-1993, w.e.f. 21-6-1993
3. Proviso inserted by GSR 24, dated 6-12-1993, w.e.f. 6-12-1993

[1][Explanation.—[2][(1) For the purpose of this rule "National Highway" or "State Highway" shall not include such parts of the National Highway or State Highway as are situated within the limits of a Municipal Corporation, City or Town Municipal Council, or such other authority having a population of twenty thousand or more.]

[3][Explanation.—(2) For the purpose of this rule, the expression "Hospital" means any Government Hospital, Primary Health Centre or Primary Health Unit and includes a Private Hospital or a Private Nursing Home which has the facility of a minimum of thirty beds for treatment of inpatients.

Explanation.—(3) For the purpose of this rule the expression "Office of the State Government or Central Government or Local Authority" means and includes any State or Central Government Office headed by Group 'A' or 'B' grade officers and the main Administrative Offices of Local Bodies like City Corporation, City Municipal Council, Town Municipal Council, Town Panchayat, Zilla Panchayat, Taluk panchayat and Grama Panchayat and such other offices of the State Government, Central Government or Local Authorities as may be specified by the Government from time to time.]

(2) The Deputy Commissioner of Excise shall after making such enquiry as he deems fit approve the premises of liquor shop so selected and thereafter the description of the premises of liquor shop shall be entered in the Licence to be issued:

Provided that the Deputy Commissioner of Excise may, with the prior approval of the Excise Commissioner and for reasons to be recorded in writing, permit the location of any shop within a distance of 100 metres, but not less than 50 metres from the institutions, hospital, office or locality specified in sub-rule (1) within the City Municipality or City Corporation limits.

[4][Provided further that the Deputy Commissioner of Excise may grant licence to locate any liquor shop in a premises situated within a distance of 220 metres from the middle of a State Highway or a National Highway if such premises is located in a predominantly inhabited area, or extension of a town, village, or area the population of which is more than two thousand five hundred and where a licence to locate shop in such premises was granted or was existing during the period commencing from 1st July, 1992 and ending on [5][30th June, 1994.]]

[6][(2-A) Notwithstanding anything, contained in sub-rules (1) and (2) the Deputy Commissioner of Excise may with a view to secure,

1. Explanation to sub-rule (1) inserted by GSR 119, dated 19-7-1994, w.e.f. 19-7-1994
2. Explanation to sub-rule (1) renumbered as Explanation (1) by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994
3. Explanations (2) and (3) inserted by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994.
4. Further proviso inserted by GSR 119, dated 19-7-1994, w.e.f. 19-7-1994.
5. Read for the words and figures "30th June, 1992." by GSR 132, dated 12-8-1994.
6. Sub-rule (2-A) inserted by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994.

convenience, morality, tranquility, decency or safety of the public or for any other reason, reject the application for licence to a liquor shop or premises after recording the reasons therefor.]

(3) For the purpose of this rule while measuring the distance specified in this rule, the distance shall be measured along the nearest path by which the pedestrian ordinarily reaches, adopting the mid-point of the entrance of the shop and the mid-point of the nearest gate of the institution, hospital or office if there is a compound wall and if there is no compound wall, the mid-point of the nearest entrance of the institution of the office.

(4) The Deputy Commissioner may, by order after giving the licence an opportunity of being heard, direct such licence to shift the location of any shop,—

(a) With a view to secure the convenience, morality, tranquility, decency or safety of the public [1][or compliance] of the provisions of these rules; or

(b) where after the issue of a licence, any religious institution or educational institution is established [2][or any office of the State Government or Central Government or Local Authorities or a Hospital is opened] within the limits specified in this rule;

to any other suitable place, within such period, not exceeding three months as he may specify.]

[3][(5) The Excise Commissioner may at his discretion and for reasons to be recorded in writing exempt from the application of these rules in the case of wholesale licences (CL-1) and distributor licences referred to in clauses (1) and [4][(11)] of Rule 3 of the Karnataka Excise (Sale of Indian and Foreign Liquor) Rules, 1968.]

CASE LAW

R. 5 — Amendment of *vide* Notification No. FD 20 PES 92, dated 21st June, 1993 — Constitutional validity of amended Rule 5 challenged — Rule placing restrictions regarding location of shops — Whether unreasonable and arbitrary, thereby offending Article 14 of the Constitution?

Shivaraj Patil, J., Held.—Rule 5 of the Rules 1967 prior to its amendment did place restrictions regarding location of shops stating that no such site shall be selected to locate a shop within a distance of 100 metres from any religious or educational institution or residential locality inhabited predominantly by Scheduled Castes and Scheduled Tribes. The amended Rule 5 includes hospitals, any office of the State Government or of the Central Government or local

1. Substituted for the words "and compliance" by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994.
2. Inserted by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994.
3. Sub-rule (5) inserted by Notification No. FD 9 PES 99, dated 27-11-2000, w.e.f. 27-11-2000.
4. Read for the brackets and figure "(2)" by Notification No. FD 27 PES 2001, dated 19-2-2002.

authorities and State and National Highways. Distance of 100 metres remains the same except in regard to highways. As far as State Highway and National Highway are concerned, distance prescribed for location of a shop is 220 metres from the middle of the State Highway or National Highway. It appears and it stands to reason as well, that the impugned rule is intended to secure the convenience, morality, tranquility, decency or safety of the public. . . . In short, the impugned rule serves the public interest and as such it is neither unreasonable nor arbitrary. — *B.N. Raghuram and Others v State of Karnataka and Others,* 1993(3) Kar. L.J. 235A.

R. 5 — Amendment of — Whether *ultra vires* Section 71 of the Act.

Shivaraj Patil, J., Held.—The contention that the impugned Rule 5 being the subordinate legislation is not a law made by the legislature of the State and that too when it is not placed on the floor of the legislature, restrictions imposed by the impugned rule are bad in law, does not merit acceptance. Having regard to the language of Section 71(3) of the Act, a valid rule made under the Act has to be taken as a law made by the State Legislature. The impugned Rule 5 is aimed at and intended to achieve some social purpose and the rule is made in the interest of safety, morality and convenience of the public and that the impugned rule having been made by virtue of the powers conferred by Section 71 of the Act definitely serves the purpose of the Act. The impugned Rule 5 is not *ultra vires* of the Act. — *B.N. Raghuram and Others v State of Karnataka and Others,* 1993(3) Kar. L.J. 235B.

Rule 5 — Karnataka Excise Act, 1965, Section 21 — Location of business of vending Indian Liquor — Notice to licences to shift location of their business — Law and order question — Challenged — Contended that no opportunity given and decision taken unilaterally to issue notice to shift place of business — Held — Act always prevail over rules — Rule 5 is only in context of shifting whereas Section 21 is in context of maintaining law and order — Main intention is to close down shops immediately — Notice is more an enabling notice rather than one for purpose of shifting — Three days time to make alternative arrangement is more than sufficient when situation is examined under Section 21 of the Act — Action of authorities have to be examined on touchstone of rules and statutory provisions rather than to examine rights of the licensee — No person has a right to trade in liquor as it is a privilege of the State — Action does not warrant interference in exercise of power of judicial review of administrative action.

D.V. Shylendra Kumar, J., Held: Petitioners have approached Court on the premise that the Deputy Commissioner of the District has surprised them by issuing the notice calling upon the petitioners to shift the location of their business to some other place within three days from the date of receipt of the notice as otherwise the authorities will be constrained to close the shops forcibly from carrying on business at the existing location. . . . . They urge that the notice in *per se* bad in law; that it is clearly violative of sub-rule (4) of Rule 5 of the Karnataka Excise Licences (General Conditions) Rules, 1967 and they have been asked to shift their business place even without giving any opportunity; that a decision has been taken unilaterally even before

the petitioners can have their say in the matter; that the rule contemplates opportunity of hearing being given to persons like the petitioners before the place of business is asked or permitted to be shifted and therefore the present action is clearly violative of the rule. . . . . While it is true that sub-rule (4) of Rule 5 of the Rules contemplates opportunity of hearing to a person who has been asked to shift from the existing location to a new place, there cannot be any generalisation of this rule so as to either dilute the provisions of Section 21 of the Act or in any way interpret the rule working at cross purposes with the intention and object of Section 21 of the Act. While a section always prevails over a rule, in fact, Rule 5 is only in the context of shifting a premises where as Section 21 of the Act is mainly in the context of maintaining law and order, peace and it has been made in the larger public interest. . . . . The notice is more an enabling notice rather than one for the purpose of shifting the premises. In fact, the main intention of the notice is to close down the shops immediately and the incidental purpose and option given is to shift to some other place and then to continue the business there. In fact, giving three days time to make alternative arrangements is more than sufficient opportunity when the situation is examined from the context of the provisions of Section 21 of the Act. . . . . . Insofar as the contention that the rights are violated is concerned, in the first instance, no person has a right to trade in liquor, it is a privilege of the State, parted by the State for a price. While it is true that the action of the authorities can be examined on the touchstone of the rules and statutory remedies, it is done more to ensure that the authorities exercising power under the Act and the Rules, act in a fair and statute conforming manner rather than to examine the rights of a licensee. . . . The action taken under notice is more than justified, *bona fide* action and not one warranting interference in the exercise of power of judicial review of administrative action. . . . . If permitting the shops to remain open in the area can create law and order situation, the authorities can definitely close down the shops immediately. . . . The authorities are definitely at liberty to keep the shops closed in the exercise of power under Section 21 of the Act till the decision is taken. — *Rajendra Jyotiba Desai and Another v State of Karnataka and Others*, 2009(1) Kar. L.J. 40.

Rule 5 — Petitioner had questioned before Appellate Tribunal order passed by Excise Commission withdrawing CL-7 licence that had been issued in his favour — Order passed by Tribunal declining to grant stay of withdrawal of licence pending considering of appeal challenged herein — This Court observed that Tribunal found that grant of licence obviously clashes with interest of a protected institution under Rule 5 of the Rules; that location of temple being well-within 100 metres from location of hotel — Tribunal satisfied that it was not a proper case for grant of interim stay and in its exercise of discretion declined to grant interim order prayed for — No scope for interference in absence of any special or compelling reasons forthcoming — Writ petition dismissed.

D.V. Shylendra Kumar, J., *Held*: The Court is of the view that even without referring to this decision of the Supreme Court, the Tribunal has applied all the principles laid down therein and has examined the

relevant aspects for grant of interim order of stay and being of the opinion that there was no justification to grant an interim order as prayed for, as such an order is perfectly justified. No scope for interference in the absence of any special or compelling reasons forthcoming, as indicated from the record or as placed before the Court by the learned Counsel for the petitioner for waiving the general rule of maintaining a distance of 100 mtrs. and also in the absence of any compelling reasons to grant a CL-7 licence as recorded by the Commissioner within a distance of 100 mtrs., the order passed by the Tribunal is unexceptionable, both on facts and in law. — *Hotel Basant Residency, Bangalore v The Excise Commissioner in Karnataka, Bangalore Division, Bangalore and Others*, 2008(2) Kar. L.J. 89.

Rule 5 — Public interest litigation — Availability of alternative remedy under Act, and maintainability of — Grant of licence to run liquor shop within distance of 100 metres from educational institution, in breach of statutory condition — Where Appellate Authority to which appeal lies under Act, has no jurisdiction to decide question of public interest, remedy provided in Act is therefore no remedy when public interest is involved — Availability of such remedy is no bar to writ petition in public interest.

S.R. Bannurmath and Subhash B. Adi, JJ., *Held*: The appeal lies under the circumstances mentioned in Section 61, but the Appellate Authority cannot decide the public interest. — *Prof. G. Shainesh and Others v State of Karnataka And Others*, 2009(1) Kar. L.J. 287B (DB).

R. 5 — Whether the amended Rule 5 covers CL-9 licences also?

Shivaraj Patil, J., *Held*.—Merely because the liquor is sold in a refreshment room or in the premises covered by CL-9 licence, it cannot be said that amended Rule 5 is not applicable to CL-9 licences, in view of the express statement made in Rule 2 that these rules are applicable to all licences issued under the Act and that every such licence shall be deemed to include the conditions prescribed by these rules as general conditions. In addition to the rules applicable to a particular kind of licence, the event of sale of liquor in whatever premises pertaining to a licence issued under the Act attracts the impugned Rule 5. Hence, I conclude that the amended Rule 5 is applicable to CL-9 licences also. — *B.N. Raghuram and Others v State of Karnataka and Others*, 1993(3) Kar. L.J. 295B.

R. 5, As amended — Object to contain proliferation of activity — Making liquor inaccessible on the Highways except those areas which fall within the Municipal areas — Not arbitrary or unreasonable — Difference noticed between areas not irrational.

S. Rajendra Babu and B.K. Somasekhara, JJ., *Held*.—The object of the impugned rule, it appears to us is that the activity of selling liquor in certain areas is sought to be eliminated, thus making liquor inaccessible in such areas. Admittedly the activity of selling liquor is obnoxious or deleterious to the health of the people. In fact Article 47 of the Constitution enjoins on the State to introduce prohibition as State policy. Indeed, if introduction of prohibition which was dear to the Father of the Nation is not possible either for administrative or financial reasons, the only alternative sofaras the State is concerned is

to contain the proliferation of the activity. The amended rule partially promotes that policy by making liquor inaccessible on the Highways except those areas which fall within the Municipal areas. The policy as such cannot be found fault with. When prohibition itself cannot be introduced for various reasons, the only other alternative for the State is to contain or regulate the trade thereto. If the proclivity to drink is contained, at any rate in certain areas, the tendency thereto is reduced to some extent. May be the manner in which the reasons are set forth in the statement of objections may not be very articulate. But the effect of the rule is to that effect. If this is the objective, we cannot say the action on the part of the State or the policy thereto is either arbitrary or unreasonable. If there is a shop within the Municipal limits and if such shop is allowed to sell liquor and, if only shops outside the Municipal area are sought to be eliminated, we do not find that there is any unreasonable classification for one falls within the Municipal area or the other falls outside the town. Therefore, classification cannot be stated to be bad, for it is based on discernible grounds. Highway specified in the Schedule means except such parts thereof as are situated within any Municipal areas, is hereby declared to be a National Highway and, in the definition, it is made clear that any 'Municipal area' means with a population of 20,000 or more, the control or management of which is entrusted to Corporation or a Municipal Council or a Town Area Council, a Town Committee or any other authority. The definition of the areas falling within the Municipal area and outside is recognised in the National Highways Act also. Similar is the position even in regard to nationalisation of routes arising under the Motor Vehicles Act, wherein the operation of any transport vehicle on a route is nationalised, exception is made to the areas falling within the Municipality or a local authority. In that way, it is accepted in all enactments the difference between the areas falling within the Municipal area or outside the Municipal area, even though the route or road is a Highway. Therefore, the difference noticed by the Department is not irrational. — *Karnataka Wine Merchants' Association (R), Bangalore and Others v State of Karnataka and Others*, 1994(2) Kar. L.J. 576 (DB).

Rule 5(1) — Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 — As amended by Karnataka Excise (Sale of Indian and Foreign Liquors) (Second Amendment) Rules, 2000, Rule 3-A — Bar licence — Renewal of — Rejection of application for renewal on ground that school is likely to be opened in future within distance of 100 metres from premises licensed to run bar — Rejection of application on such ground is to be held bad in law — Licence has to be renewed if condition regarding location of licensed premises is satisfied on date of renewal.

It is not in dispute the applications filed by the petitioners have to be considered by the authorities based on the location of the premises as on the date of considering renewal or granting licence afresh. Just because a person is going to construct a school building or a school will be inaugurated in the near future that cannot be a ground for the authorities to reject in anticipation of opening of a school. Either the Excise Act or the Rules do not provide for rejection of the renewal application on the ground that in the near future a school will be

opened. In the instant case, the authorities have held that the Gnana Deepika School building is under progress and therefore the renewal application of the petitioner has been rejected. If the theory of the respondent is adopted, it will be difficult in the future to grant any licence in favour of any person. A rival businessman may object on the ground that either a school or a temple will be established within the prohibited distance from the shop in question by applying the above principle all such applications have to be rejected. Under the circumstances, the reasonings given by the authorities to reject the renewal of the petitioners are also bad in law. Therefore, in anticipation that a school building will be opened in the future cannot be a ground for the authorities to reject the renewal applications of the petitioners. — *S.N. Chinappa v State of Karnataka and Others*, 2001(5) Kar. L.J. 234.

Rule 5(1) and 5(3) — Constitution of India, Articles 47 and 226 — Grant of liquor licence — Conditions for — Information given by applicant for licence must undergo and satisfy "strict scrutiny" test — State Government should not treat its right to part with its privilege of vending liquors only as means of earning more and more revenue — Fulfillment of constitutional obligation is more important than earning revenue.

S.R. Bannurmath and Subhash B. Adi, JJ., Held: The authority has not at all taken the measurement in compliance with Rule 5 of the Rules. The Revenue Inspector has utterly failed to discharge his function in terms of Rule 5. In a casual way, he draws a mahazar by making alleged enquiry. He does not take the actual measurement, he accepts the sketch given by the applicant. He does not make verification of the measurement in pursuance of the sketch submitted by the applicant. The Excise Inspector or the authority, which is required to verify the spot cannot mechanically submit a report. He owes a duty to take exact measurement from the center point where the shop is sought to be established to find out as to whether there are any objectionable institutions within the radius of 100 metres from the said point. From the records it appears that, with an intention to grant licence or permission, the report is submitted. . . . . . The Court direct the respondent 1 to take necessary action against respondents 2 and 3 for dereliction of their duties in granting permission to respondent 4 in utter violation of Rule 5 of the Rules. The Court direct the State to take steps to implement Rule 5 in its true spirit. — *Prof. G. Shainath and Others v State of Karnataka And Others*, 2009(1) Kar. L.J. 287B (DB).

Rule 5(1) and 5(3) — Constitution of India, Articles 47 and 226 — Interpretation of statutes — Rule prohibiting location of liquor shops within distance of 100 metres from educational or religious institutions, hospitals, offices of Government, residential locality, etc. — Object of — Object is to make liquor inaccessible to people in area — Rule providing for determination of prohibited distance by taking measurement along "nearest path by which pedestrian ordinarily reaches" must be interpreted in furtherance of object of Rule, and not with object to find excuse to grant licence to earn revenue, but to find way to impose restriction within framework of rule.

S.R. Bannurmath and Subhash B. Adi, JJ., Held: 'Ordinarily' means regular, usual, normal, common, often recurring, according to

established order, settled, customary and reasonable. Thus, the meaning of 'ordinarily' cannot be extended to mean only the designated road or pathway and not access otherwise available to the consumer of liquor shop. If the object is to restrict the consumer within 100 metres of the educational institution and to make it inaccessible in certain areas, the rule has to be interpreted in furtherance of the said object. Rule 5 is framed in furtherance with the object under Article 47 of the Constitution of India, it cannot be said that the measurement has to be taken along with footpath then to a zebra cross designated for crossing and again to footpath and shop. If otherwise there is a way to reach the liquor shop and it is accessible to the consumer, it cannot be ignored that such a way is available for consumer, who can ordinarily reach. It is unacceptable that the consumer of liquor will have to go to liquor shop according to traffic signal. — *Prof. G. Shainesh and Others v State of Karnataka And Others*, 2009(1) Kar. L.J. 287B (DB).

Rule 5(1) and 5(3) — Karnataka Traffic Control Act, 1960, Section 14(2)(r) — Karnataka Traffic Control Rules, 1979, Rule 6 — Karnataka Traffic Control (Regulation of Traffic on Highways) Rules, 1979, Rule 5(4) and 5(6) — Karnataka Police Act, 1963, Section 69(a) — Constitution of India, Article 226 — Location of liquor shops — Restriction regarding — Rule prohibiting liquor shops within distance of 100 metres from educational or religious institutions, hospitals, et — Distance prohibited to be determined by taking measurement alo "nearest path by which pedestrian ordinarily reaches", and not zig-z path in conformity with Traffic Rules which requires pedestrian to wa on footpath and cross road only at point thereon at which pedest crossing is provided — Where offending liquor shop is within ra of 50 metres from educational institution from which it can be reac by pedestrian by just crossing road through opening in its me without requiring to walk down footpath till pedestrian crossing distance required to be walked to reach liquor shop from educa institution is just 84 metres as per report of Commissioner appo by Court, liquor shop, held, is directly hit by prohibition location cannot be justified on ground that distance along zig-zag is more than 100 metres — *Mandamus* lies to authority concer shift liquor shop beyond radius of 100 metres from central po educational institution.

S.R. Bannurmath and Subhash B. Adi, JJ., Held: Rule 5, sub- mandates that, no licence shall be granted for sale of liquor w distance of 100 metres from religious, educational, hospitals, o the State or Central Government or local authorities or re locality where the inhabitants are predominantly belong Scheduled Castes or Scheduled Tribes. In order to asce distance, sub-rule (3) specifies that the distance shall be measu the nearest path by which the pedestrian ordinarily reaches The argument that, measurement has to be taken along footpath till it reaches the zebra crossing and from there measurement is to be taken to the other side of the footpa reach the shop is not acceptable. The object behind the p Rule 5 is to restrict the liquor shop in certain areas. The ob Rule is not to find an excuse to grant licence, but to find best the restriction can be imposed within the framework o

the Rules. . . . . . . Even the authorities have understood that the measurement is by means of radius from the center point of the shop and not the zigzag measurement along with footpath, zebra crossing *etc.* In this case, just across the gate of the IIMB, there is an opening of median and on the other side, there is a wine shop and if straight measurement is taken, it is less than 50 metres, if the measurement is taken as available pathway *i.e.*, at the opening, it is 84 metres. . . . If the radius is the criteria, then irrespective as to the existing road or otherwise, the prohibition or restriction should be imposed in opening of liquor shop within the radius of 100 metres from the center point of the educational institution or religious institution, hospitals or State or Central Government offices, *etc.*, as contemplated under Rule 5 of the Rules. . . . . It is clear that the authority empowered to grant licence or permission have not discharged their function in true spirit of the Rule 5 of the Rules. The mandate of the Rule 5 is not observed in its true spirit and in a very casual way the permission is granted. It is also noticed that the licences to liquor shops are given in utter disregard to the intention of Article 47 of the Constitution and restriction imposed under the Rules. The licences are granted by circumventing the rules to the advantage of the shop owner. By this means, the State instead of protecting the interest of public in the matter of public health, security impact on the society has allowed liquor vending as if it is fundamental right to vend liquor. The time has come for the State to take serious look in implementing the law relating to vending of intoxicating drink and drugs to make a safe and healthy society. — *Prof. G. Shainesh and Others v State of Karnataka And Others*, 2009(1) Kar. L.J. 287A (DB).

Rule 5(4) — Licensed premises — Order to shift — Giving of opportunity to licensee of being heard is necessary before directing him shift his premises.

The respondents have not provided reasonable opportunity to the itioners as required under sub- rule (4) of Rule 5 of the Karnataka ise Licence (General Conditions) Rules, 1967. So, under these mstances, before calling upon the petitioners to shift their business mises to any other premises, the respondents have to give an ortunity for the petitioners and only after hearing the petitioners spondents can pass such an order. Under these circumstances, matter has to be reconsidered by the licensing authority after ing an opportunity to the petitioners and till such time the ndents shall have no right to interfere with the business of the oners as the respondents have collected licence fee for the whole year. — *S.N. Chinappa v State of Karnataka and Others*, 2001(5) . 234.

le 5(4) — Petitioner is holder of CL-2 licence — To run a Wine — Respondent 3-Chief Officer raised objection — Store is close osque — Held, impugned communication at Annexure-K is as no notice was issued to petitioner, accordingly petitioner ppear before respondent 2-the Deputy Commissioner of Excise.

Gunjal, J., Held: The petitioner was issued with a CL-2 licence a Wine Store. Suffice it to say objections were raised by ent 3 on the ground that the said wine store is close to a

Mosque. Aggrieved by the same the petitioner is before this Court ... only grievance of the petitioner is that there is a non-complian[ce] ... Rule 5(4) of the Karnataka Excise Licences (General Conditions) Ru[les] 1967. . . . . . Indeed, a perusal of Annexure-K discloses that such exercise has not been done inasmuch as before passing the impug[ned] communication at Annexure-K no notice was issued and the petiti[oner] was not heard. Till the entire proceedings are concluded Annexure ... shall not be given effect to. — *Popular Wines, Kushalnagar, Madi[keri] Taluk v The Excise Commissioner in Karnataka, Bangalore and Ot[hers]* 2018(2) Kar. L.J. 184.

6. **Sign Boards, etc.**—Every licensee shall affix a sign board ... conspicuous place of the shop showing the nature of the shop, num[ber] of licence and retail price in such language as may be understood ... the majority of the residents in the locality.

7. **Entrance and Exit.**—There shall be only one and the ... entrance and exit for the shop.

8. **Mixture Prohibited.**—The licensee shall not mix any ma[terial] injurious to the health or mix anything to decrease or increase ... strength of the liquor or its intoxicating power.

9. **Employment of Women and Certain others prohibited.**—(1) The licensee shall not employ any women [1][xxx].

(2) He shall not employ any person who has been convicted ...

(3) The licensee shall not employ, in any capacity, a person who ... below the age of 18 years or a person who is suffering from ... contagious disease.

CASE LAW

Rule 9 — Employment of women — Prohibition of — Rule m[ust] be understood as forbidding women being employed to serve liquor to customers — Rule must be interpreted strictly and must not ... allowed to affect right of employer or employee beyond what ... absolutely essential — Rule cannot be pressed into service to preven[t] employment of women artists in restaurants for purpose of singing o[r] playing musical instruments.

Tirath S. Thakur, J., Held: The Rule, is in three parts, one dealing with employment of woman, the other employment of convicts and the third employment of any person who is below the age of 18 years or who is suffering from any contagious disease. Sub-rules (1) and (2) simply provide that the licensee shall not employ any woman or any person who has been convicted. If the intention was to forbid the licensee from employing women or convicts also "in any capacity" nothing prevented it from making a provision to that effect as indeed it has done in the case of minors and persons suffering from any contagious disease. This would imply that in so far as women are

1. The words "other than his family member" omitted by GSR 171, dated 6-6-1969, w.e.f. 19-5-1969.

concerned, their employment is forbidden but not in every capacity. Such employment may in certain capacities and situations, be permissible. Employment of women under Rule 9 of the General Conditions Rules, is forbidden only in so far as the sale and service of liquor is concerned. There may be other capacities in which a woman may be employed by the licensee, which capacities may be wholly unconnected with the actual service of liquor to the customers. Rule 9 imposes a restriction which must be interpreted strictly so that the same does not operate to affect the right of the employer or the employee beyond what is absolutely essential. Rule 9 must be understood to forbid the licensee from employing women with a view to serving liquor to the customers or handling liquor at any stage. The intention of the rule-making authority obviously is to prevent the licensees from engaging women for promoting the sale of liquor. That purpose can be served well even when the provision is understood in a restricted sense. Suffice it to say that Rule 9 does not forbid employment of a female artist whether for instrumental or vocal music so long as any such artist is not employed to serve or handle liquor for the customers visiting any such place of public entertainment. — *R. Shankaregouda v The Commissioner of Police, Bangalore,* 1998(2) Kar. L.J. 494B.

Rule 9 — Karnataka Police Act, 1963, Section 31 — Liquor shop — Facilities provided like — Live music — Songs by men and women — Police tried to control — Petitioner contends that Police have no powers except Excise Officials — Provisions of both the Acts, Rules and Regulations discussed at length — Finally, held, Police are having powers to enter premises to control the business being carried by petitioner thus writ petition is dismissed.

S. Abdul Nazeer, J., Held: The petitioner is a CL-9 licence holder under the Karnataka Excise Act, 1965. She has been carrying on the business at No. 45/1, Mission Road, Bangalore. Under the said licence, she is authorised to provide liquor along with refreshment or food for the customers. The contention of the petitioner is that her business is under the control of Excise Department created under the provisions of the Excise Act. It is further contended that she has been carrying on the business within the territorial limits of the local police. Respondents are periodically visiting her business premises and are exercising control in their own way though they are not vested with such power and jurisdiction in view of the bar contained under Section 51 of the Act and the corresponding Rules, namely, Karnataka Excise (Entry, Inspection and Investigation Authorisation) Rules, 1967. The respondents tried to interfere with the business of the petitioner with regard to the facilities provided like live music, songs sung by men and women along with musical instruments. . . . . . The licensing authority or the officer so authorised may, if need be, seek assistance of any other authority or authorities during such inspection. Therefore, once the place in question is a public place, the Police have access as a matter of right to enter the premises. . . . . He concludes by submitting that having regard to the different provisions of the Excise Act and the Police Act, petitioner is not right in contending that the Police have no power or authority to enter and inspect the business premises of the petitioner. . . . . . The empowerment under Section 51

is necessary only for the purpose mentioned in clauses (a) to (c) and for the purpose of Section 54, the Police Officer has authority to enter any place as defined under the Act. A conjoint reading of these provisions would clearly indicate that the Police Officer is authorised to enter the premises of the petitioner holding CL-9 licence and carrying on the business of bar and restaurant. . . . . . It is also relevant to notice some of the provisions of the Karnataka Police Act, 1963. The Police Act has been enacted to provide uniform law for regulation of police force in the State of Karnataka, maintenance of public order, for prevention of allied matters and for certain other purposes. . . . . . In the present case, the question is whether the police have power or authority to enter the premises of the petitioner where she has been carrying on the business having regard to the different provisions of the Excise Act and the Police Act. . . . . There is no merit in this writ petition. It is accordingly dismissed. — *Smt. Manjula ... and Another v The Commissioner of Police, Bangalore City, Bangalore* ... 2013(2) Kar. L.J. 369.

10. **Liquor not to be sold to certain persons, etc.**—(1) No liq... shall be sold or otherwise given to the following persons, namely...

(a) insane persons;

(b) persons known or believed to be drunk;

(c) persons known or suspected to be about to take par... riot or disturbance of public peace or any other crim...

(d) Excise Officials, Police Officers, Railway Servants and... Bus Chauffeur, on duty, or in uniform;

(e) persons below the age of [1][twenty-one years.]

(2) No quantity of liquor shall be allowed to be taken out ... shop except to the extent permitted by the rules under Ka... Excise Act, 1965.

CASE LAW

Rule 10(1)(e) — Criminal Procedure Code, 1973, Sections ... 2(c) — Excise offence — Criminal proceedings initiated agains... licensee for — Sale of liquor to persons below age of 21 yea... Where allegations make out ingredients of offence, proceedings ca... be quashed merely on ground that offence is non-cognizab... Offence, held is cognizable.

In view of the clear provisions of Section 52 of the Excise Ac... offence comes within the definition of Section 2(c) of the Code... Criminal Procedure. . . . . Under the circumstances, there is no ... in the petition. Accordingly, the petition is dismissed. — *C.P. Thij... Others v State by Ashoknagar Police Station, Bangalore*, 2001(4) Kar... 601(B).

1. Substituted for the figures and words "18 years" by GSR 223, dated 27-7-1976, ... 5-8-1976

[1][10-A. **All shops shall remain closed on Gandhi Jayanthi Day.**—All shops shall remain closed throughout the second day of October of every year.

Explanation.—For the purpose of this rule "throughout the second day of October of every year" means the period of twenty-four hours commencing from twelve mid-night between the first day and second day of the October of every year].

[2][10-B. **Prohibition of sale of liquor during election and counting days etc.**—In order to comply with the directions of the Election Commission of India for banning sale or supply of liquor and intoxicants during election to the House of the people or State Legislative Assembly the District Magistrate may by notice in writing to the licensee require that any shop in which any liquor is sold or supplied shall be closed at such times and for such period as the Election Commission may consider necessary for conduct of peaceful, fair and free elections. The licensee shall not be entitled to any compensation for such closure.]

[3][11. **Certain Acts not permitted.**—(1) No gambling, dance, gathering, feast or any kind of entertainment or unlawful act shall be permitted in such premises.

(2) The licensee shall sell liquor only in the approved shop and shall ...t sell in such premises any article other than such article and except ...the extent permissible in accordance with the terms of the licence].

CASE LAW

...le 11 — Entertainment — Prohibition of, in place where sale of ...r is licensed — Prohibition is of only unlawful entertainment — ...does not forbid live-band or music in restaurant licensed to sell ... food and refreshments.

...th Singh Thakur, J., *Held*: The words used in Rule 11(1) of Excise ...ces (General Conditions) Rules, 1967, are "any kind of ...ainment" and not "any kind of amusement". The term ...tainment" has not been defined either in the Excise Act or in ...ules mentioned above. It has not been defined even in Police Act, ...e Amusement Licensing Order issued under the same. The ...ession "Entertainment" has a wider meaning. Any such wide ...ning does not fit into the scheme of Rule 11 of the General ...dition Rules. That is because, if 'Entertainment' is understood in ... wider sense the rule would forbid the licensee from serving food ... refreshment in a place which is licensed for the sale of liquor. A ... licence is issued to authorise sale of liquor only in places where ...d and refreshment is also served. The wider meaning given to the ...m entertainment has no application to Rule 11 in which the said ...m has been used in a restricted sense and ought to be understood ...the context in which it appears. When so viewed, the expression

1. Rule 10-A inserted by GSR 282, dated 23-9-1980, w.e.f. 23-9-1980.
2. Rule 10-B inserted by GSR 58, dated 17-4-1996, w.e.f. 17-4-1996.
3. Rule 11 substituted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.

"any kind of entertainment" in Rule 11, cannot include playing of music whether live or taped. The expression any kind of entertainment appears in the company of the expression 'unlawful act' and must therefore take its colour from the said expression so as to be understood to mean an entertainment which has an element or tendency of being unlawful. . . . Rule 11 of the General Conditions Rules, does not forbid live music in a Restaurant holding a CL-9 licence for serving liquor, food and refreshment. — *R. Shankaregowda v. The Commissioner of Police, Bangalore*, 1998(3) Kar. L.J. 494D.

[1][11-A. **Prohibition of publication of advertisements relating to intoxicants** *etc.*—(1) No licensee or any person on his behalf shall use the name and other details contained in the label of the brand of liquor approved by the Excise Commissioner under Rule 15 of the Karnataka Excise (Bottling of Liquor) Rules, 1967 for advertising the sale or consumption of liquor, by way of printing or publishing in any newspaper, news sheet, book, leaflet, booklet, or any other single or periodical publication or displaying hoardings or in any other manner on highways, in lanes, by lanes or in public places, or cinematographic film or slides or sign board, balloon, parachute or any announcement made by any means or producing or transmitting light, sound or smoke, as a means or method of attracting public attention:

Provided that nothing contained in sub-rule (1) shall apply to catalogues or price lists.

Explanation.—For the purpose of this rule advertisement includes the advertisement made by the licensee or by any person on his behalf of any product or material, other than liquor, with the name, figures, pictures, emblems, logos or pattern and style of letters, art work, colour combination *etc.*, resembling or identical to the name and other details of liquor contains in the label approved by the Excise Commissioner under Rule 15 of the Karnataka Excise (Bottling of Liquor) Rules, 1967.

12. Intimation to Police Officers.—The licensee shall give intimation to the Police Officers of any thief or person suspected to have committed any offence when such person is in his shop.

13. Customers not to be allowed to stay at night.—The licensee shall not allow any person other than a member of his family or his authorised servant in the shop during nights after the time fixed for closing the shop.

[2][*Explanation*.—For the purposes of this rule 'Family' means the wife, or husband, legitimate children and step children or any other member residing with and wholly dependent on such licensee.]

14. Sales only for cash.—No liquor shall be sold except for cash.

[3][15. **Payment of rent** *etc.*—(1) The rent payable to the Government in respect of the shop or shops shall be credited by the licensee in the

1. Rule 11-A inserted by Notification No. FD 10 PES 96(II), dated 6-4-2004, w.e.f. 6-4-2004.
2. Explanation to Rule 13 added by GSR 171, dated 6-5-1969, w.e.f. 15-5-1969.
3. Rule 15 substituted by Notification No. FD 6 PES 2003, dated 30-6-2003, w.e.f. 1-7-2003.

taluk or district treasury where the shop is situated. Every month's rent shall be credited on or before the last working day of that month in which case no interest shall be levied. Interest at the rate of fifteen per cent per annum shall be charged from the first day of the succeeding month on the outstanding amount of rentals as long as it remains undischarged irrespective of the expiry of the lease period or the termination of lease. The amount remitted after the due date shall be first adjusted towards interest due as on that day and the balance, if any, shall be adjusted towards the monthly rent. If the rent for any month is not credited before the end of that month or before the expiry of the time granted under sub-rule (1-A), the lease shall be determined, the licence shall be cancelled and the right of retail vend of liquor shall be disposed of afresh.]

[1][(1-A) the Deputy Commissioner may, on an application made to him in this behalf, if satisfied for reasons to be recorded in writing that the monthly rent could not be paid before the end of the month due to circumstances beyond the control of the licensee, grant time upto and inclusive of the tenth day of the succeeding month. If such rent together with interest due is not paid within the time so granted, the Deputy Commissioner may, on an application made to him in this behalf and after obtaining adequate security in the form of irrevocable bank guarantee of a Scheduled Bank for an amount equal to the amount of one month's rent together with interest due for the full month, grant further time till the end of such succeeding month.]

[2][(1-B) The Excise Commissioner may, by order in writing, grant time for a further period not exceeding fifteen days, if, on application made to him in this behalf through the Deputy Commissioner he is satisfied that the monthly rent could not be paid for reasons beyond the control of the licensee].

[3][(1-C) If the rent for any month is not paid on or before the date specified in sub-rule (1) or before the expiry of the time granted under sub-rule (1-A) or under sub-rule (1-B), the lease shall be determined and the licence shall be cancelled and the right to vend liquor shall be disposed afresh in such manner as the State Government may direct and such disposal shall be at the risk of the defaulter who shall be liable for all losses that may be sustained by the State Government and the Deputy Commissioners may forfeit the deposits of the defaulter either in full or in part with the approval of the excise Commissioner.]

(2) The lease shall be determined and the licence cancelled in the case of tappings of the trees without payment of duty thereof on behalf of the licensee and tree tax and tree rent is not remitted immediately, after they are booked for infraction.

1. Sub-rule (1-A) substituted by GSR 432, dated 12-12-1969 and shall be and shall always be deemed to have been substituted w.e.f. 25-11-1969.
2. Sub-rule (1-B) inserted by GSR 50, dated 12-2-1976, w.e.f. 19-2-1976.
3. Sub-rule (1-C) inserted by GSR 250, dated 24-8-1979, w.e.f. 30-8-1979.

(3) The Superintendent of Excise may stop the issue of the allotted liquor or trees for the realisation of rent, tree tax and tree rent.

(4) If the rent, tree tax and tree rent are not credited even in respect of any one shop or the group of shops of the licensee, the lease shall be determined and the licence cancelled and the group of shops may be put to reaction.

(5) The advance rent deposited by the licensee before the commencement of the lease shall be adjusted towards the rent of the last month of the lease period.

CASE LAW

R. 15 — As amended by Notification dated 25-6-1983 w.e.f. 1-7-1983 — Leases for excise year 1-7-1983 to 30-6-1984 — Auction for — Stipulation in the Notification, dt. 25-6-1983 that lease shall be subject to provisions of Act & Rules as amended from time to time — *Held,* not open for bidder to contend that the auction which had taken place before publication of Rules would not be subject to the impugned rule. — *State of Karnataka v Anjanappa & Co.,* 1988(2) Kar. L.J. 118 (DB) : ILR 1988 Kar. 1695 (DB).

Rule 15 — As amended by Gazette Notification dated 25-6-1983 — Levy of interest on payments made beyond stipulated period — Source of power for State Government for such levy is Section 71(1) and (2)(h) of Karnataka Excise Act, 1965 : Sub-clause (ii) of clause (h) of sub-section (2) of Section 71 has no applicability — Rate of interest enhanced from 6½% to 18% p.a. by Gazette Notification dated 25-6-1983 held to be not *ultra vires* the rule making power of the State Government — Scope of the Rule — Explained. — *M/s. H. Dasappa and Sons v State of Karnataka and Others,* 1988(2) Kar. L.J. 19 (DB) : ILR 1988 Kar. 1710 (DB).

R. 15(1-A) — Waiver of interest on the excise revenue arrears payable under Rule 15 — Whether beyond the rule-making power of the State Government?

K.A. Swami, Actg. C.J. and L. Sreenivasa Reddy, J., Held.—No provision of the Act has been pointed out to us which places the impugned rule beyond the power of the rule-making authority or indicates that the impugned rule is contrary to any of the provisions contained in the Act. We have already pointed out that interest is levied only under Rule 15 of the rules which is framed in exercise of the rule-making power. If that be so, it follows that in exercise of the very rule-making power, the State Government can either modify Rule 15 by modifying the rate of interest or mode of recovery or by completely waiving the interest. Therefore, we are of the view that Rule 15-A cannot be held to be beyond the rule-making power of the State Government. — *Ramesh v State of Karnataka and Another,* 1993(2) Kar. L.J. 358 (DB).

[1][15-A. Waiver of interest.—Notwithstanding anything contained in these rules, the State Government may if it considers necessary so to do, in the interest of expeditious recovery of arrears of excise revenue

1. Rule 15-A inserted by Notification No. FD 5 PES 2000, dated 28-4-2000 and shall be deemed to have come into force w.e.f. 1-4-2000.

[1][by notification issued in this behalf] waive the interest payable under Rule 15, and may grant such instalments, not exceeding three monthly instalments, as it thinks fit for payment of arrears of principal amount, wherever the defaulters come forward and make payment of the outstanding principal amount:

[2][Provided that this scheme shall be in operation over such period as the State Government may specify in the notification.]

16. Suspension of licence.—(1) The licence may be suspended by the Deputy Commissioner when the licensee makes default in payment of the rent, tree tax and tree rent of any shop or group of shops.

(2) When a licence is suspended, the Deputy Commissioner may make alternate arrangements for the sale of liquor. Any loss which the Government may incur in this behalf may be recovered from the licensee and the Deputy Commissioner may forfeit the deposits either in full or in part with the approval of the Excise Commissioner.

17. Transfer of lease not permitted.—The right of retail vend of liquor shall not be transferred by the licensee except with the previous permission of the Deputy Commissioner.

CASE LAW

Rr. 17 & 17-A — Circular dated 2-5-1984 and 24-10-1984 — Letter number EXE. SO. 28/1978-89, dated 15-4-1986 — Circular dated 2-6-1984 not in conformity with law: transfer on basis of circular unsustainable.

S. Mohan, C.J. and N.Y. Hanumanthappa, J., Held.—The entire case is based on the Circular dated 2-8-1984. As rightly pointed out in the order dated 15-4-1986 this Circular is contrary to law. Only when the authority has power to do something and if he makes a promise and if the petitioner acts on such promise the question of equitable estoppel would arise. Where contrary to the statutory provisions and where there is no scope for transfer by volition the transfer is sought to be effected by merely payment of Rs. 500/- based on the Circular, such a transfer is *ab initio* void. If this position is arrived at, the demand for Rs. 12,500/- treating this as a fresh licence is perfectly valid. — *T. Thimmappa and Others v The Excise Commissioner in Karnataka, Bangalore and Others,* 1992(1) Kar. L.J. 360 (DB) : ILR 1991 Kar. 3710 (DB).

Rules 17 and 17-B — Bar licence — Transfer of — Not transferable except with previous permission of Deputy Commissioner — Licensee intending to transfer his licence has to make application therefor with payment of prescribed fees, and Deputy Commissioner can transfer licence in favour of person named in application only if such person is eligible for grant of licence under Act — Licensee, not capable of running business himself, cannot permit another person to carry on business on basis of lease agreement or power of attorney or like — such arrangement to run business is not permissible, and where it is resorted to, licence is liable to be cancelled.

1. Inserted by Notification No. FD 25 PES 2003, dated 20-6-2006, w.e.f. 20-6-2006
2. Proviso substituted by Notification No. FD 25 PES 2003, dated 20-6-2006, w.e.f. 20-6-2006

The Clause 9 licence stand in the name of respondent 3 who ha submitted the applications for renewals. Simply because the name o Hotel Vandana is written thereon, it does not confirm any right on the petitioner. No order under Rule 17 of the Karnataka Excise Licence (General Conditions) Rules, 1967 have been produced and thus on th basis of any agreement registered or unregistered the petitioner canno have the right to vend liquor in respect of the licence issued t respondent 3. The State has to be very careful while granting the licence. If a person is not capable of running the business himself o through his staff should not ordinarily be entitled for any licence Sub-letting or sub-leasing of premises where a business is carried o is also not permitted. In cases where it is found that on the basis o some agreement the business is being carried without permission o the Commissioner, it was appropriate that even the licence granted t the person who has permitted to delegate his power to somebody els should have been cancelled. No person can carry on business o vending the liquor without a proper licence and if vending of the liquor is permitted, under such arrangement or agreement it woul frustrate the very object of having the control over the licensee or make him even in some cases criminally liable. The petitioner has n *locus standi* to challenge the order of the Deputy Commissioner fo transfer of the place of business and the petition is therefore liable t be dismissed. . . . . It may also be observed that the Excise Commissioner should take immediate steps in cases like the presen one where the business is not being carried on by the licensee but b some other person on the basis of lease agreement or the power o attorney or the like, then the proper step would be to cancel the licen itself. — *Mahabala Uggappa Adappa v Excise Commissioner and Other* 2000(2) Kar. L.J. Sh. N. 4.

Rules 17 and 17-B — Karnataka Excise (Sale of Indian and Foreig Liquors) Rules, 1968, Rule 3(9) — Bar licence — Cancellation fo unauthorised transfer of — Transfer involves parting with ownership of business of running bar for which licence was granted, and transfe becomes unauthorised attracting penalty of cancellation of licence, o if transfer has been effected without previous permission of designa authority and without payment of requisite transfer fee — Act do not contemplate that licensee must himself run bar by being prese on premises all time — He is not prohibited from managing busine through servant or agent — Power of attorney simpliciter granted to agent to manage business does not amount to transfer of business agent — Unless there is finding that licensee has divested himself o ownership of business, licence cannot be cancelled — Cancellation of licence in absence of such finding, held, amounts to wrongful preventing licensee from carrying on her business.

Rule 17 of the Karnataka Excise Licences (General Conditions) Rul 1967 provides that the right of retail vend of liquor shall not b transferred by the licensee except with the previous permission of the Deputy Commissioner. Rule 17-A provides that in the event of dea of the licensee during the currency of the licence, the Depu Commissioner may, on an application by the legal heirs of the decease with the previous sanction of the Excise Commissioner, transfer the licence in their favour. Rule 17-B provides for transfer of licences

provides that in regard to licences issued for sale of Indian liquor or foreign liquor or both, in Form No. CL-1 or CL-2 or CL-7 or CL-9 under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, the Deputy Commissioner may on an application by the licensee and subject to payment of transfer fee equivalent to the annual licence fee specified and with the prior approval of the Excise Commissioner, transfer such licence in favour of any person named by such licence, if such person is eligible for grant of a licence. . . . . The State has the exclusive privilege and right of manufacturing and selling intoxicating liquor. Grant of a CL-9 licence is a privilege or permission granted by the State to the licensee to sell liquor in the manner prescribed in the licence. Parting with the possession and control of the business covered by the CL-9 licence would amount to transfer of such privilege and licence and such an act without the permission of the licensing authority, will be illegal and violative of the terms of licence. But, if the licensee retains possession and control, but only authorises a servant or an agent to manage the business on his behalf, there is no illegality or infringement of the conditions of licence. In fact clauses (b) and (c) of sub-section (1) of Section 29 contemplate the business of a licensee being run by any agent or servant with the express or implied permission or authority of the licensee. . . . . A general power of attorney is executed as a matter of convenience. By executing such a power of attorney, the executant [principal] provides for management of his affairs/business/properties, by the agent. A power of attorney is normally executed when the executant is not personally able to attend to his affairs/business due to absence or due to incapacity or other preoccupation. The acts of the agent are binding on the principal. In spite of the absence of the principal (executant) granting the power of attorney, the possession and control of the affairs/business remain with the principal. A general power of attorney granted to an Agent to manage the business of the principal does not create any right, title or interest in the asset or business which is the subject-matter of the power of attorney, in favour of the attorney holder. Power of attorney is revocable at the will and pleasure of the principal. In short, under a general power of attorney simpliciter [either general or special], there is a mere authority to act, unaccompanied by any interest of the agent in the subject-matter of the power of attorney. A common example of such power of attorney is what is granted by a member of family, to another family member to run/manage the business/affairs of the grantor. . . . . When companies and firms can apply and obtain licences and run the business through their authorised agents or employees, there is nothing *per se* objectionable about a person giving a general power of attorney to his family member or friend, or an employee, to run a Bar and Restaurant. A company or firm or individual may own a chain of Restaurants all over the country or State and may grant a power of attorney to an agent/employee to look after the day-to-day management and to apply for licence every year. Mere execution of a power of attorney by the licensee to a family member or employee or friend, cannot lead to suspension or cancellation of the licence or refusal to grant or renew the licence. . . . . Thus, only if it is established that the possession and control of the licensed business has been transferred to someone else, or that the licensee has not retained any control over the licensed

The Clause 9 licence stand in the name of respondent 3 who has submitted the applications for renewals. Simply because the name of Hotel Vandana is written thereon, it does not confirm any right on the petitioner. No order under Rule 17 of the Karnataka Excise Licences (General Conditions) Rules, 1967 have been produced and thus on the basis of any agreement registered or unregistered the petitioner cannot have the right to vend liquor in respect of the licence issued to respondent 3. The State has to be very careful while granting the licence. If a person is not capable of running the business himself or through his staff should not ordinarily be entitled for any licence. Sub-letting or sub-leasing of premises where a business is carried on is also not permitted. In cases where it is found that on the basis of some agreement the business is being carried without permission of the Commissioner, it was appropriate that even the licence granted to the person who has permitted to delegate his power to somebody else should have been cancelled. No person can carry on business of vending the liquor without a proper licence and if vending of the liquor is permitted, under such arrangement or agreement it would frustrate the very object of having the control over the licensee or to make him even in some cases criminally liable. The petitioner has no *locus standi* to challenge the order of the Deputy Commissioner for transfer of the place of business and the petition is therefore liable to be dismissed. . . . . . It may also be observed that the Excise Commissioner should take immediate steps in cases like the present one where the business is not being carried on by the licensee but by some other person on the basis of lease agreement or the power of attorney or the like, then the proper step would be to cancel the licence itself. — *Mahabala Uggappa Adappa v Excise Commissioner and Others*, 2000(2) Kar. L.J. Sh. N. 4.

Rules 17 and 17-B — Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, Rule 3(9) — Bar licence — Cancellation for unauthorised transfer of — Transfer involves parting with ownership of business of running bar for which licence was granted, and transfer becomes unauthorised attracting penalty of cancellation of licence, only if transfer has been effected without previous permission of designated authority and without payment of requisite transfer fee — Act does not contemplate that licensee must himself run bar by being present on premises all time — He is not prohibited from managing business through servant or agent — Power of attorney simpliciter granted to agent to manage business does not amount to transfer of business to agent — Unless there is finding that licensee has divested himself of ownership of business, licence cannot be cancelled — Cancellation of licence in absence of such finding, held, amounts to wrongfully preventing licensee from carrying on her business.

Rule 17 of the Karnataka Excise Licences (General Conditions) Rules, 1967 provides that the right of retail vend of liquor shall not be transferred by the licensee except with the previous permission of the Deputy Commissioner. Rule 17-A provides that in the event of death of the licensee during the currency of the licence, the Deputy Commissioner may, on an application by the legal heirs of the deceased, with the previous sanction of the Excise Commissioner, transfer the licence in their favour. Rule 17-B provides for transfer of licences

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business, or where there is a transfer of licence without permission, the licence will be liable to be cancelled. On the other hand, if the licensee continues to have control of the licensed business, but runs the business through a servant or an authorised agent, (that is attorney holder) then there is no violation of the terms and conditions of licence, irrespective of whether the licensee lives in the city/place where the business premises is situated. The question of cancellation of the licence will not arise, in such a case. . . . . In this case, there is no finding that the licensee petitioner has parted with the possession of the licensed premises or the control of the business to anyone else, in particular to the power of attorney holder. Nor has the licence been transferred by the petitioner to anyone else. The power of attorney was granted to a family member, even prior to the date of the licence being transferred from the name of the petitioner's mother to the petitioner. The petitioner obtained transfer of the licence from the name of her mother to her name by making an application through the said power of attorney holder. Grant of a power of attorney by a licensee to a family member, to manage the affairs or business of the licensee cannot be considered as parting with the possession or transferring the control or transferring the licence to someone else. The third respondent has completely overlooked this aspect of the matter and has misconstrued the observations of this Court in *Mahabala's* case. . Hence, the petition is allowed. Consequently, the petitioner will be entitled to continue her business. She will also be entitled to claim appropriate refund of licence fee in regard to the period during which she has been wrongfully prevented from carrying on the business by the impugned order. — *Geetha v State of Karnataka and Others*, 2000(2) Kar. L.J. 383.

[1][17-A. Transfer in the event of death.—In the event of death of the licensee or the lessee during the currency of the licence or lease, the Deputy Commissioner may on an application by the legal heirs of the deceased with the previous sanction of the Excise Commissioner, transfer the licence or the lease as the case may be, in their favour.]

[2][17-B. Transfer of licence in other cases.—(1) Notwithstanding anything contained in Rule 2, licences issued,—

(i) for Sale of Indian Liquor (other than arrack) or Foreign Liquor or both, in Form No. CL-1 (Wholesale licence), or CL-2 (retail shop licences) [3][CL-6A (Star Hotel Licence)] or CL-7 (Hotel and Boarding House Licences) or CL-9 (Refreshment room (Bar) Licence under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968; or

(ii) for sale of Beer under the Karnataka Excise (Lease of Right of Retail Vend of Beer) Rules, 1976;

1. Rule 17-A inserted by GSR 141, dated 3-5-1977, w.e.f. 12-5-1977.
2. Rule 17-B inserted by GSR 64, dated 28-6-1995 and shall be deemed to have come into force w.e.f. 1-4-1995.
3. Inserted by Notification No. FD 03 PES 2007(A), dated 25-6-2007, w.e.f. 25-6-2007

The Deputy Commissioner may on an application by the licensee and [1][subject to payment of transfer fee equivalent to twice the annual licence fee] specified in Rule 8 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 or Rule 5 of the Karnataka Excise (Lease of Right of Retail Vend of Beer, Rules, 1976, as the case may be, and with the prior approval of the Excise Commissioner, transfer such licence in favour of any person named by such licence, if such person is eligible for grant of a licence under the Karnataka Excise Act, 1965 or the rules made thereunder.

(2) Nothing in this rule shall apply to transfer of licence under Rule 17-A.]

[2][18. Authorised persons only to be in-charge.—The licensed shop shall not be put in the charge of any person other than the one authorised by the licensee and in respect of whom a nowkarnama is issued by the Inspector of Excise. A Court-fee stamp of rupees two shall be affixed to each nowkarnama. A certificate from the Health authority to the effect that the persons so authorised are not suffering from any contagious disease, shall be produced by the licensee before the Inspector of Excise once in six months.

This provision shall be applicable to employees working in Breweries, Distilleries, Wineries and also toddy tappers working under toddy licensees.

Explanation.—For the purpose of this rule Health authority means "any Registered Medical Practitioner.]

19. Report of breach.—Every breach of the conditions of the licence or provisions of the Karnataka Excise Act, 1965 by any servant of the licensee or other person shall immediately be reported by the licensee to the Excise Officer and the licensee shall comply with the orders of the Excise Officer in this behalf.

20. Licensee not to be interested in Excise Officer.—No licensee shall have any pecuniary transactions with the Officers of the Department of Excise, Police or Revenue.

21. Inspection.—(1) The following officers shall be authorised to inspect any shop,—

(a) Any Excise Officer not below the rank of Sub-Inspector of Excise;

(b) Any Revenue Officer not below the rank of Tahsildar;

(c) Any Gazetted Officer of the Medical or Health Department.

(2) The licensee shall produce the receptacles kept for measurements of the liquor at the time of inspection.

(3) The licensee shall maintain an inspection book and other registers as may be prescribed by the Excise Commissioner and keep a record of all inspection notes and make proper entries. The Inspection

1. Substituted for the words "subject to payment of transfer fee equivalent to the annual licence fee" by Notification No. FD 05 PES 2018(II), dated 28-2-2018, w.e.f. 1-3-2018
2. Rule 18 substituted by GSR 859, dated 8-12-1978, w.e.f. 11-12-1978.

...l be delivered to the Excise Officer on the termination of the lease

CASE LAW

Rule 21 — Criminal Procedure Code, 1973, Section 482 — Prayer — For quashing of FIR — Offences — Under the Karnataka Excise Act, 1965 — Search conducted without recording the grounds for his belief — That such an offence committed — Held, such probable defence is available only at the time of trial, thus writ petition is dismissed.

N. Ananda, J., Held: Search conducted by an officer, without recording of the grounds for his belief that an offence under the Act was likely or being committed would vitiate entire proceedings and investigation of first information would be abuse of process of law...... It is not possible to take into consideration the probable defence that may be available to petitioner during trial. At this stage, it is not possible to hold that there was violation of the provisions of Section 54 of the Act. Such contention can be raised only after final report is filed against petitioner. — *Smt. Mahananda v State of Karnataka*, 2013(1) Kar. L.J. 178.

22. Conviction entails cancellation of all licences.—Where a licensee holds more than one licence and he is convicted for breach of conditions of any one of such licences, the other licences also may be cancelled.

[1][23. **Shifting of shops.**—Subject to the restrictions specified in Rule 5, the Deputy Commissioner may permit a licensee to shift the location of his shop from one place to another within the limits of a Grama Panchayat or within the [2][Municipal Area] or City Municipal Corporation] [3][on payment of a fee equivalent to [4][fifty per cent] of the licence fee charged on the licence in respect of such shop:]

[5][Provided that the Excise Commissioner may permit shifting of location of a shop by any person holding a wholesale licence (CL-1) granted under clause (1) of Rule 3 of the Karnataka Excise (Sale of Indian and Foreign Liquor) Rules, 1968 to any place, within a District:]

[6][Provided further that subject to Rule 5, in case of CL-2 [7][and C... licences, the Deputy Commissioner may permit a licensee to shift the location of his shop.—

(a) within the limits of Municipal Area/Town Panchayat Area or ... Municipal Corporation;

1. Rule 23 substituted by Notification No. FD 22 PES 93(II), dated 9-5-1994, w.e.f. 9-5...
2. Substituted for the words "territorial division of Municipality" by GSR 119, ... 19-7-1994, w.e.f. 19-7-1994.
3. Inserted by Notification No. FD 5 PES 2000, dated 28-4-2000 and shall be deemed ... come into force w.e.f. 1-4-2000.
4. Substituted for the words "twenty-five per cent" by Notification No. FD 03 PES 2... dated 28-2-2014, w.e.f. 1-7-2014
5. Proviso inserted by Notification No. FD 9 PES 99, dated 27-11-2000, w.e.f. 27-11-200...
6. Second proviso inserted by Notification No. FD 7 PES 2008(II), dated 15-1-200... 15-1-2009
7. Inserted by Notification No. FD 11 PES 2009, dated 9-2-2010, w.e.f. 9-2-2010

(b) from category (a), (b), (c) and (d) areas to category (e) area of item 2 [1][and item 9] of sub-rule (1) of Rule 8 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 within the District;

(c) within category (e) area of item 2 [2][and item 9] of sub-rule (1) of Rule 8 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 within the District.]

24. Licensee not entitled to compensation.—Where a licence is cancelled during the currency of the licence, the licensee shall not be entitled to any compensation of any kind.

Inserted by Notification No. FD 11 PES 2009, dated 9-2-2010, w.e.f. 9-2-2010
Inserted by Notification No. FD 11 PES 2009, dated 9-2-2010, w.e.f. 9-2-2010

Annexure - 6

(2) The licensee under sub-rule (1) intend to showcase and sell the bottled beer and serve for consumption, he shall obtain the same from KSBCL in accordance with the Karnataka Excise (Possession, Transport, Import and Export of Intoxicants) Rules, 1967.

(3) The licensee under sub-rule (1) shall lift the bulk beer only against the permits issued by the excise officer in charge of brewery in accordance with the Karnataka Excise (Possession, Transport, Import and Export of Intoxicants) Rules, 1967.

(4) The licensee under sub-rule (1) shall issue only bulk beer not exceeding four liters to an employee or a casual visitor of the brewery.

(5) The licensee under sub-rule (1) shall maintain daily accounts and Stock Book-1 as prescribed in Form 8.]

[1][3-B. Transfer of licence in the event of death of the licensee or lessee.—In the event of death of the licensee or the lessee, during the currency of the licence or lease, the Excise Commissioner may on an application by the legal heir of the deceased licensee or lessee, transfer the licence or the lease as the case may be in his/her favour, if such legal heir is otherwise eligible for grant of licence under the provisions of the Act or rules made thereunder.

3-C. Transfer of licence in other cases.—(1) The Excise Commissioner may on an application by the licensee and subject to payment of transfer fee equivalent to twenty-five per cent of the annual licence fee specified in Rule 5, as the case may be, transfer such licence together with all infrastructure pertaining to the industry in favour of any person named by such licensee, if such person is eligible for grant of a licence under the Act or the rules thereunder.

(2) Nothing in these rules shall apply to transfer of licence under Rule 3-B.]

4. Renewal of licence.—(1) Applications for renewal of licences shall be presented at least one month before they expire. Such applications shall be made to the Commissioner through the Deputy Commissioner and it shall be accompanied by a treasury challan for having credited the fee prescribed in Rule 5.

(2) The Commissioner may, if satisfied that the licence may be renewed, renew the same.

[2][5. Fee for grant or renewal of Licence.—The fee for grant or renewal of a Brewery licence shall be [3][rupees twenty-seven lakhs] per year.].

1. Rules 3-B and 3-C inserted by Notification No. FD 23 PES 2006(3), dated 6-6-2007, w.e.f. 6-6-2007
2. Rule 5 substituted by GSR 214, dated 1-6-1986 and shall be deemed to have come into force w.e.f. 1-7-1986.
3. Substituted for the words "rupees eighteen lakhs" by Notification No. FD 03 PES 2014(III), dated 28-2-2014, w.e.f. 1-7-2014.

[1][5-A. Additional lease amount.—In respect of a licence granted under these rules, an additional licence fee equivalent to fifteen per cent of the licence fee levied under Rule 5, shall be levied for the purpose of various infrastructure projects across the State, equity investment in Bangalore Mass Rapid Transit Limited and for establishing a Mukhya Manthri Grameena Rasthe Abhivruddhi Nidhi in the proportion of 57:28:15 respectively.]

[2][5-B. Disqualification.—(1) A person shall be disqualified from submitting an application for obtaining or renewal of licence under these rules if he,—

(i) has not paid the arrears of any excise dues in respect of liquor sold by him; or

[3][(ii) has not produced a valid income-tax clearance certificate or has not produced any document in proof of filing the latest income-tax return before the Income-tax Department in respect of his income;]

(iii) is holding an office of profit under the State Government or Central Government;

(iv) is a minor or an undischarged insolvent or is of unsound mind;

(v) has been convicted of any cognisable and non-bailable offence under any Act, or any offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 and Medicinal and Toilets Preparation (Excise Duties) Act, 1955, or an offence under Section 481, 482, 483, 484, 485, 486, 487 or 489 of the Indian Penal Code, 1860.

Explanation.—For the purposes of this rule, a company, firm or other body corporate shall be deemed to have incurred the disqualification if the person in charge of and responsible for the conduct of the business of such company, firm or other body corporate has incurred the disqualification:

[4][Provided that the authority which grants or renews the licence may in the interest of revenue and for any other reason to be recorded in writing relax the provisions of clause (i) and grant or renew the licence.]

(2) A person shall not be disqualified under clause (i) of sub-rule (1) if he produces a certificate from a competent Revenue or Excise Officer to the effect that the arrears have been paid.]

[5][5-C. Fee for granting permission for subleasing of brewery.—The Excise Commissioner may, on an application made by the licensee, permit subleasing of the brewery licence held by the licensee in favour of any person named by such licensee, who is eligible for grant of licence under the Karnataka Excise Act, 1965 or the rules made thereunder, on payment of ten per cent of the licence fee levied for grant of licence for a brewery under Rule 5, as additional licence fee

1. Rule 5-A substituted by Notification No. FD 36 PES 2003(2), dated 23-2-2004 and shall be deemed to have come into force w.e.f. 1-2-2004
2. Rule 5-B inserted by Notification No. FD 15 PES 99(II), dated 24-6-2002, w.e.f. 24-6-2002
3. Clause (ii) substituted by Notification No. FD 15 PES 99(II), dated 23-8-2002 and shall be deemed to have come into force w.e.f. 24-6-2002
4. Proviso inserted by Notification No. FD 15 PES 99(II), dated 23-8-2002 and shall be deemed to have come into force w.e.f. 24-6-2002
5. Rule 5-C inserted by Notification No. FD 9 PES 2003(2), dated 5-6-2003, w.e.f. 1-7-2003

at the time of granting permission for subleasing and thereafter at the time of renewal of licence every year as long as the sublease continues.]

6. Duration of licence.—Every licence granted or renewed under these rules shall not be for a period exceeding one year.

7. Security to be taken.—Every licensee shall execute an agreement binding himself, his heirs, legal representatives and assigns to observe the conditions of the licence, hypothecating the brewery buildings, machinery, apparatus together with the stock of Beer, etc., as security for the payment of money which may be due to Government by way of duty, rents or other payment due under the provisions of his licence. If the agreement is not Executed within ten days from the date of approval of the application for licence, the licence shall be cancelled and the licensee shall not be entitled for refund of the fee paid.

[1][7-A. Deputation of Supervisory Staff.—The Commissioner may depute such number of Excise Officers as may be necessary at the Brewery for supervision to ensure compliance with the provisions of the Act, Rules made thereunder and the licence. [2][x x x x x.]

[3][7-B. Attendance of Officers.—(1) The Deputy Commissioner, with the previous sanction of the Commissioner, shall fix the working hours of the Excise Supervisory staff posted to the Brewery, which shall not exceed eight hours on working days.

(2) If the licensee requires the services of the Excise Supervisory staff, beyond the working hours fixed and on holidays and Sundays, he shall make a requisition in advance in writing to the Inspecting Officer. The Inspecting Officer shall permit the licensee to avail the services of the Excise Supervisory staff [4][x x x x x]].

8. Control.—The Inspecting Officer shall take an account of all the operations in the Brewery and it shall be competent for him or any other Officer authorised to inspect the brewery, to enter the building and to visit and examine any room, place or utensil mentioned in the entry at any time either by day or night.

[5][8-A. Chemical Laboratory.—(1) The licensee shall establish a well-equipped Chemical Laboratory to the satisfaction of the Excise Commissioner within the premises of the brewery to check the quality of raw materials used and the liquor produced in the brewery which shall be manned by a chemist holding a degree in science with

1. Rule 7-A inserted by GSR 111, dated 25-3-1976, and shall be and shall always be deemed to have been inserted w.e.f. 1-4-1976.
2. The words "The cost of the establishment, including pay, Leave salary and pensionary contribution in respect of such officers shall be paid by the Licensee in advance" omitted by Notification No. FD 05 PES 2005(2), dated 19-6-2005 and shall be deemed to have come into force w.e.f. 1-4-2005
3. Rule 7-B inserted by GSR 296, dated 10-11-1987, w.e.f. 10-11-1987.
4. The words "subject to the payment of overtime charges at twice the rate of usual emoluments. Every fraction of an hour not less than fifteen minutes shall be treated as one hour for the purpose of payment of overtime charges. If the services of the staff is required during night, such staff shall be paid overtime charges at the rate of four times of the usual emoluments" omitted by Notification No. FD 05 PES 2006(2), dated 19-6-2006 and shall be deemed to have come into force w.e.f. 1-4-2005
5. Rule 8-A inserted by Notification No. FD 18 PES 2001(4), dated 30-6-2001, w.e.f. 1-7-2001

Chemistry as one of the subjects, preferably Organic Chemistry or Bio-Chemistry or specialisation in Alcohol Technology.

(2) The beer produced in the brewery shall be released for sale only after the Chemist referred to in sub-rule (1) certifies that, such beer is fit for human consumption.]

9. Vessels in Brewery.—All mashtuns, coppers, coolers, fermenting and racking or settling vessels shall be so placed and fixed and backs so placed as to admit of the contents being accurately gauged or measured. Before taking into use all such vessels shall be gauged by the Inspecting Officer or by such any other Officer as may be deputed by the Deputy Commissioner for the purpose, in the presence of the licensee or his authorised agent, and the tables shall be constructed for showing the total capacity of each vessel in litres and in the case of mashtuns, racking or settling vessels, its capacity for each 1/2 c.m. in depth. In the case of underbacks, coppers and cooler, dimension tables only need be constructed.

10. Name of each room or vessel to be distinctly marked.—The name or an abbreviation thereof of each room or vessel shall be conspicuously marked and where more than one room or vessel is used for the same purpose they shall be distinguished by progressive numbers. Any room or vessel entered for a specific purpose shall be used for that purpose only.

11. Alterations, Repairs, etc.—No repairs shall be executed or additions or alterations made to either the buildings or the plant without the sanction in writing of the Commissioner. Minor repairs may be made with the written permission of the Deputy Commissioner.

12. Storage of Beer in Casks.—Where Beer is stored in casks which are used exclusively for storing and not for issue from the brewery, such casks shall be numbered consecutively and each shall have mark on both heads, its number and capacity which shall be entered in the register kept by the brewer in the form prescribed by the Commissioner and also the number of brew in which the Beer was manufactured.

13. Gauging Rods.—The Inspecting Officer shall be provided with proper gauging rods and standard saccharometer and Thermometer to which the licensee has got the approval of the Commissioner.

14. Brewing Book.—The licensee shall keep in the Brewery, a brewing book supplied by the Commissioner. This book shall be the property of Government which shall be accessible for inspection by the Inspecting Officer or any other Officer authorised in this behalf. This shall be replaced every quarter. The entries in this book shall be made by any responsible employee of the licensee, approved by the Deputy Commissioner. There shall be no mutilations or defacement of the entries already made.

15. Brewing Book maintenance.—The brewer shall enter in the proper columns atleast twenty-four hours before beginning to mash malt or grain or to dissolve sugar, the day and hour of brewing and in the "Remarks" column, the consecutive number of the brew and the

word "Indian" or "English" as the case may be with date and hour of making entry, and atleast six hours before the time entered for mashing or dissolving, he shall enter separately in the proper columns the quantities of malt or unmalted corn, sugar and of hops or hop-substitutes to be used and the hour when all the worts will be drawn off the grains in the mashtun. He shall also enter in the appropriate columns the dip and gravity of worts collected, the number and description of the vessel or vessels in which they have been collected and the date and hour of the entry. Such entry shall be made within one hour after the collection has been completed and if the worts are not collected before 6 p.m., the entry shall be made before 8 a.m. next morning. If fermentation has started before the requisite entry is made, the brewer shall enter the true original gravity of worts. Each entry shall be initialled by the brewer or his agent.

16. Brewing.—Beer shall be brewed from good materials and its quality shall be such as to satisfy the Commissioner. Wort shall not be brewed of a higher gravity than 1073°. Nothing shall be added to Beer after it has been racked and removed to a Beer store except fining or other materials approved by the Commissioner. Beer, in beer stores must not be diluted and any beer found in stores must not be diluted and any beer found adulterated will be liable to forfeiture. The forfeiture of beer, will not relieve the brewer from the penalty of fine or cancellation of licence prescribed under Rule 23.

17. Surveys.—Officers surveying of breweries shall make complete survey of the whole of the brewery room every day on which they will visit the brewery showing in the proper columns in the survey book, the form of which will be prescribed by the Commissioner, the condition of each vessel and the dip and gravity of each vessel containing fermenting worts, unless such wort shall be fining, when except in case of suspicion of fraudulent addition or removal of wort the surface need not be broken. A copy of each survey will be made in a similar book and will be left at the brewery for the information of the brewer.

18. Stock Book.—The licensee shall keep a stock account in such form as may be required by the Commissioner in which he shall duly enter the net quantity of beer brewed, the quantity, if any, returned and brought into stock after verification by the authorised Officers and the total quantity issued. Each issue within the State shall be accompanied by a permit in Form No. 3 issued by the Inspecting Officer. But the export permits shall be issued by the Commissioner. The stock book shall be checked atleast once in a week by the Inspecting Officer.

19. Corrections, etc., in the accounts.—No entry in any of the ... kept by the brewer under these rules shall be erased or overwritten. If there may be any need of correction of any entry, a circle in ink or pencil should be drawn around the incorrect entry and correct entry be made with the initials of the person incharge. The Inspecting Officer shall initial the corrections during his next inspection. ... errors shall be reported to the Deputy Commissioner by the Inspecting Officer and his directions shall be acted upon.

20. Samples.—Samples of wort in any stage of fermentation or of stored beer may be taken for analysis without payment by the Inspecting Officer or any Authorised Officer. The Inspecting Officer shall at least once in a quarter, forward the samples of wort in fermentation to the laboratory for analysis. On any other occasion. When the samples of wort or beer are taken, the Inspecting Officer shall submit a special report to the Deputy Commissioner explaining the reasons and the nature of analysis required. Samples of brewing material shall be taken only if required, by the Commissioner. When, however, there is large discrepancy between the quantity of malt or unmalted corn entered in the brewing book and that of the grains in the mashtun, a sample of the grains should be taken and at once sent for analysis with a copy of entry in the brewing book, the dip of the grains in the mashtun, the quantity represented by the dip and the percentage or increase or decrease. On this report and after examination of the samples, the Commissioner will pass such orders as he thinks fit.

21. Stock taking.—The stock of the beer in every brewery shall be taken atleast twice in each year by the Inspecting Officer or such other Officer authorised. Stock shall only be taken at other times by the Inspecting Officer or any other Officer so authorised, if there is any suspicion of fraudulent practices. In the former case immediate report shall be submitted to the Deputy Commissioner and in the latter, to the Commissioner, along with the explanation of the brewer for any excess or deficiency exceeding one per cent and any orders passed thereon shall be executed.

22. The charging and collection of duty.—The duty on all the beer from the brewery for the purpose of consumption shall be paid at such rate as may be prescribed by the Government from time to time, into the Government Treasury, and the relative challan produced before the issue of the necessary permits. The Inspecting Officer shall submit a statement showing the quantity of beer issued and the amount of duty collected thereon every month to the Deputy Commissioner and a copy to the Commissioner.

23. Refund when and how made.—Where it is found that the brewer has paid any excess amount, he may claim its refund and if on verification his claim is found to be correct, the amount shall be refunded or adjusted towards the duty on any subsequent issues, the relevant entries being made under the initials of the Inspecting Officer on the permits towards which the adjustment is effected.

[1][24. Quarters.—x x x x x.]

25. Breach of Rules.—In case of any breach of these rules or conditions of licence either by the licensee or by his employees, the Commissioner may suspend or cancel the licence or both and the licensee shall not be entitled to any compensation. The suspension or cancellation shall not prevent the prosecution of any person for any offence which he may commit against the provisions of the Karnataka Excise Act, 1965 or other law for the time being in force. If, on

1. Rule 24 omitted by Notification No. FD 02 BAA 2011(I), dated 20-4-2012, w.e.f. 30-4-2012

prosecution, the licensee or his employee is convicted by the Court. It shall be lawful for the Commissioner to declare his licence forfeited.

26. **The licensee to be bound by all additional Rules.**—The brewer (licensee) shall be bound by all the additional rules for the control of breweries which may hereafter be prescribed under the existing law or under any law which may hereafter be enacted and by all special orders issued by the Commissioner with regard to individual brewery and shall cause all persons employed by him in his breweries to obey all such rules.

27. **Appeal.**—(1) Except as otherwise provided, an appeal shall lie,—

(a) to the Deputy Commissioner from any order or proceedings taken under these rules by the Inspecting Officer or any other Officer authorised by him;

(b) to the Commissioner from any order passed or proceedings taken or any appellate order passed by the Deputy Commissioner.

(2) The appeal under clause (a) of sub-rule (1) shall be preferred within sixty days and the appeal under clause (b) of sub-rule (1) shall be preferred within ninety days of the communication of the order appealed against.

[1][27-A. **Grant of licence for Microbrewery.**—Any person who desirous of obtaining a licence for a Microbrewery shall apply to the Excise Commissioner in Form 4 through the Deputy Commissioner. The Application shall be accompanied by a treasury challan for having credited the fee specified in sub-rule (2) and full description of the premises, utensils and installed capacity of the Plant per day. The detailed in the application shall be checked either by the Deputy Commissioner or some other Officer duly authorised by him in this behalf, who shall certify to the fact, if he finds it correct, and forward it to the Commissioner. The Commissioner may grant Microbrewery licence subject to conditions and restrictions specified in the Karnataka Excise Licences (General Conditions) Rules, 1967.]

28. **Repeal and Savings.**—All rules corresponding to the foregoing rules framed under any enactment repealed by Section 72 of the Act are hereby repealed:

Provided that the repeal shall not effect,—

(a) the previous operation of the rules so repealed or anything duly done or suffered thereunder, or

(b) any right, privilege, obligation or liability accrued or incurred under any rule so repealed, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any rule so repealed, or

(d) any investigation or legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if such rules had not been repealed:

Provided further that subject to the preceding proviso anything done or any action taken (including any appointment or delegation made, notification, order, instructions or direction issued, form, certificate obtained, permit or licence granted or registration effected under any such rules), shall be deemed to have been done or taken under the corresponding provisions of these rules and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under the Act or these rules, as the case may be.

1. Rule 27-A substituted by Notification No: FD 03 PES 2012(I), dated 31-3-2012, w.e.f. 1-4-2012

FORM 1

[See Rule 3]

APPLICATION FOR THE BREWERY LICENCE

To *Court fee stamp of Rs. 2*

The Excise Commissioner in Karnataka, Bangalore.

1. Name or names of the applicant with full postal address.

2. The amount of capital proposed to be invested.

3. The name of the place and the site in which the building for housing the brewery is situated (description and plans of the building to be furnished).

4. Description of the vessels and other permanent apparatus.

5. Approximate production capacity of the Brewery.

6. Date from which the applicant desires to start the Brewery.

[1][7. x x x x x]

[2][8. x x x x x]

9. Whether the applicant has enclosed the treasury challan for having credited the prescribed licence fees in favour of the Government.

DECLARATION

1. I/We hereby declare that the particulars mentioned in the application are correct.

2. I/We are not convicted of any offence under the Karnataka Excise Act or Rules made thereunder or any of the cognizable or non-bailable offence.

1. Entries relating to Sl. No. 7 omitted by Notification No. FD 06 PES 2006(2), dated 19-6-2006 and shall be deemed to have come into force w.e.f. 1-4-2006
2. Entries relating to Sl. No. 8 omitted by Notification No. FD 62 SAA 2011(1), dated 30-4-2012, w.e.f. 30-4-2012

3. I/We have gone through the Karnataka Excise (Brewery) Rules, 1967, relating to the licence applied for by me/us hereunder and am/are conversant with the provisions thereof.

4. I/We hereby undertake to abide by the conditions of the licence and provisions of the Karnataka Excise Act, 1965 and the Rules and regulations made thereunder.

Signature of the applicant.

FORM 2

See Rule 3]

BREWERY LICENCE

I......................Excise Commissioner in Karnataka, under the provisions of Section 16 of the Karnataka Excise Act, 1965, hereby licence you.............................(hereinafter called the licence) to [1][manufacture, store and sell] beer in the Brewery at......................from......................to subject to the following conditions to be observed by you, the licensee,—

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965. Notifications, Rules and orders made or issued thereunder and the Karnataka Excise (Brewery) Rules, 1967.

2. The licensee shall observe such rules as may be prescribed by the State Government or such instructions and orders as may be issued by the Excise Commissioner from time to time in regard to the control of the manufacture, possession and sale or issue of the beer.

3. The licensee shall be bound by such orders as may be passed by the State Government or the Excise Commissioner concerning the process of manufacture to be adopted and the standard and the quality of beer to be produced.

4. The licensee shall provide a saccharometer and a thermometer of a kind to be approved by the Excise Commissioner for testing the gravity of wort in the Brewery. A hydrometer should also be provided for testing the strength of the beer. The stores fermentation rooms, all vessels and apparatus in the Brewery shall be kept clean. The premises of the Brewery should also kept clean and in sanitary conditions.

5. The licensee is prohibited from manufacturing any of the beers, save the ones specifically instructed.

[2][6. The licensee shall issue beer only to persons holding a distributor licence or a wholesale licence under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 or a person holding a wholesale licence under the Excise Act and Rules of any other State.]

1. Substituted for the word "manufacture" by GSR 243, dated 28-10-1905 and shall be deemed to have come into force w.e.f. 1-7-1975.
2. Item 6 substituted by GSR 67, dated 15-3-1989, w.e.f. 16-3-1989.

7. The account of the transactions in the Brewery relating to wort ...d beer should be maintained in such forms and in such manner as ...y be required by the Commissioner.

8. The licensee shall furnish any statistics relating to the wort and ...er that may be required when called upon to do so by any ...petent authority.

9. For any breach of the rules or the conditions of the licence, the ...e Commissioner may after giving a fortnight's notice to the ...nsee suspend or cancel the licence. The licensee shall not be ...itled to any compensation on account of such suspension or ...cellation.

Excise Commissioner.

FORM 3

[See Rule 18]

FORM OF PERMIT UNDER RULE 18

(To be retained at the Brewery)

...ermit for transport of beer to the......................Taluk/District, Sent ....Name of carrier......................Time allowed for ...sit......................days.

No. of casks or packages	Description and strength of beer	Quantity	In bottles
		Litres	Litres

...on......................

......................196...... Officer

(To accompany the consignment)

...ermit for transport of beer to the......................Taluk/District, Sent ....Name of carrier......................Time allowed for ...sit......................days.

No. of casks or packages	Description and strength of beer	Quantity	In bottles
		Litres	Litres

....

......................196...... Officer

(To be sent to the Excise Officer of the destination)

...ermit for transport of beer to the......................Taluk/District, Sent ....Name of carrier......................Time allowed for ...sit......................days.

No. of casks or packages	Description and strength of beer	Quantity	In bottles
		Litres	Litres

Station..................

Dated....................196.......

Officer

FORM 4[1]

[See Rule 27-A]

Application for grant of Microbrewery

To,

The Excise Commissioner in Karnataka, Bangalore

1. Name/s of the Applicant/s with full postal address.
2. The Amount of capital proposed to be invested.
3. The name and description of the place in which Microbrewery is situated.
4. Whether project report is submitted.
5. Whether clearance certificate is obtained from Pollu Control Board/Environment Department.
6. Descriptions of vessels and other permanent apparatus.
7. Production capacity of the Microbrewery per day/ annum.
8. Whether Applicant has enclosed the treasury challan having credited the prescribed licence fees in favour of Government.

DECLARATION

1. I/We hereby declare that the particulars mentioned in application are correct.
2. I/We am/are not convicted of any offence under Karnataka Excise Act or Rules made thereunder or any the cognizable or non-bailable offences under any other la
3. I/We have gone through the Karnataka Excise (Brewe Rules, 1967 relating to the licence applied for by me/ hereunder and am/are conversant with the provisions the
4. I/We hereby undertake to abide by the conditions of licence and provisions of the Karnataka Excise Act, 1965 the Rules and regulations made thereunder.

Signature of the Applicant/s.

1. Forms 4 and 5 inserted by Notification No. FD 10 PES 2009(1), dated 7-1-2011, w.e.f. 7-1-2

FORM 5

[See Rule 27-A]

Microbrewery Licence

I, ... Excise Commissioner in Karnataka under the provisions of 27-A of the Karnataka Excise (Brewery) Rules, 1967 hereby licence .... (hereinafter called the "licensee") to manufacture and serve in your premises, at from .... to .... subject to the following conditions to be observed by you, the licensee.

CONDITIONS

1. The licensee shall be bound by the provisions of the Karnataka Excise Act, 1965, Notifications, Rules and orders made or issued thereunder and the Karnataka Excise (Brewery) Rules, 1967.
2. The licensee shall observe such rules as may be prescribed by the State Government or such instructions and orders as may be issued by the Excise Commissioner from time to time in regard to the control of the manufacture, possession and serving.
3. The Licensee shall be bound by such orders as may be passed by the State Government or the Excise Commissioner concerning the process of manufacture to be adopted and the standards and quality of beer to be produced and served.
4. The Licensee shall provide a saccharometer and a thermometer of a kind to be approved by the Excise Commissioner for testing the gravity of wort in the Brewery. A Hydrometer shall also be provided for testing the strength of the drought Beer.
5. The alcohol content of the beers produced supplied to the customers shall not exceed 8% V/V.
6. The pH, temperature and gravities of the brews upto maturation stage should be recorded and the same is subject to inspection as and when called for by a Competent Authority.
7. The premises to be maintained neat and clean with proper ventilation, lighting and to meet all safety and emergency standards and the beer dispensing system including glasses, serving tables *etc.* to be maintained hygienically at all times.
8. Periodic fumigation by certified persons of the storage facility as well as the premises to be done on a routine basis and records maintained.
9. Under no circumstances is beer or any alcoholic drinks to be served to under aged persons.
10. The payment of the licence fees and excise duty as specified is to be paid in advance.